

110TH CONGRESS  
2D SESSION

# H. R. 6316

To reduce global greenhouse gas emissions through the creation of a domestic carbon market and international trade measures, and to direct the revenue therefrom to public interests.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2008

Mr. DOGGETT (for himself, Mr. BLUMENAUER, Mr. VAN HOLLEN, Mr. EMANUEL, Mr. LARSON of Connecticut, Ms. DELAURO, Mr. GEORGE MILLER of California, Ms. SLAUGHTER, Mr. BRADY of Pennsylvania, Ms. WASSERMAN SCHULTZ, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. OLVER, Mr. HOLT, Mr. STARK, Ms. BERKLEY, Ms. SCHWARTZ, Mr. CROWLEY, Mr. McNULTY, Mr. MEEK of Florida, Mr. MORAN of Virginia, Mr. PASCRELL, Mr. THOMPSON of California, Mr. CONYERS, Mrs. JONES of Ohio, Mr. ACKERMAN, Mr. BISHOP of New York, Mr. CAPUANO, Ms. CASTOR, Mr. CHANDLER, Ms. CLARKE, Mr. CLEAVER, Mr. COHEN, Mr. COURTNEY, Mr. DAVIS of Illinois, Mr. ELLISON, Mr. FARR, Mr. FILNER, Mr. GUTIERREZ, Mr. HALL of New York, Mr. HARE, Mr. HINCHEY, Ms. HIRONO, Mr. HONDA, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Mr. KENNEDY, Mr. KLEIN of Florida, Mr. KUCINICH, Ms. LEE, Ms. ZOE LOFGREN of California, Mrs. MALONEY of New York, Mr. MCGOVERN, Ms. MOORE of Wisconsin, Mr. NADLER, Mrs. NAPOLITANO, Ms. NORTON, Mr. PAYNE, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Mr. SESTAK, Mr. SHERMAN, Mrs. TAUSCHER, Ms. TSONGAS, Ms. WATERS, Ms. WATSON, Mr. WELCH of Vermont, Mr. WEXLER, Ms. WOOLSEY, Mr. WU, Mr. YARMUTH, Mr. THOMPSON of Mississippi, Mr. HASTINGS of Florida, Mr. GRIJALVA, Mr. FATTAH, and Mr. DELAHUNT) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Foreign Affairs, Science and Technology, Financial Services, Education and Labor, Natural Resources, Agriculture, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# A BILL

To reduce global greenhouse gas emissions through the creation of a domestic carbon market and international trade measures, and to direct the revenue therefrom to public interests.

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4        (a) SHORT TITLE.—This Act may be cited as the  
 5        “Climate Market, Auction, Trust & Trade Emissions Re-  
 6        duction System Act of 2008” or the “Climate MATTERS  
 7        Act of 2008”.

8        (b) TABLE OF CONTENTS.—The table of contents of  
 9        this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

## TITLE I—GLOBAL COOPERATION

### Subtitle A—General Provisions

Sec. 101. Definitions.

### Subtitle B—International Reserve Allowances

Sec. 111. International reserve allowance program.

Sec. 112. Adjustment of international reserve allowance requirements.

Sec. 113. International Climate Change Commission.

Sec. 114. Determinations of comparable action.

Sec. 115. International agreements.

## TITLE II—REVENUE PROVISIONS

Sec. 201. Issuing, auctioning, and administering emissions allowances.

## TITLE III—CITIZEN PROTECTION AND DEFICIT REDUCTION TRUST FUNDS

### Subtitle A—Establishment of Trust Funds

Sec. 301. Establishment of citizen protection and deficit reduction trust funds.

Subtitle B—Citizen Protection Programs

Sec. 310. Definitions.

PART 1—CONSUMER ASSISTANCE

Sec. 311. Allocation of account funds.

Sec. 312. Climate change rebate program.

Sec. 313. Healthy families fund.

PART 2—INVESTMENT IN NATURAL RESOURCE ADAPTATION

Sec. 321. Definitions.

Sec. 322. Adaptation fund.

PART 3—EARLY ACTION

Sec. 331. Early action.

PART 4—STATE AND TRIBAL ACTION

Sec. 341. Allocation for energy savings.

Sec. 342. Allocation for States with programs that exceed Federal emission reduction targets.

Sec. 343. General allocation.

PART 5—DOMESTIC AGRICULTURE AND FORESTRY

Sec. 351. Allocation.

Sec. 352. Agricultural and forestry greenhouse gas management research.

Sec. 353. Distribution.

PART 6—INTERNATIONAL FORESTRY

Sec. 361. Findings.

Sec. 362. Definition of deforestation reduction activities.

Sec. 363. Allocation.

Sec. 364. Quality criteria for deforestation reduction activities.

Sec. 365. Eligibility for deforestation reduction activities.

Sec. 366. Reviews and discount.

PART 7—ENERGY EFFICIENCY

Sec. 371. Allocation.

Sec. 372. Distribution.

Sec. 373. Use.

Sec. 374. Reporting.

PART 8—ALTERNATIVE TRANSPORTATION

Sec. 381. Grants to provide for additional and improved public transportation service.

Sec. 382. Grants for construction of new public transportation projects.

Sec. 383. Grants for transportation alternatives and travel demand reduction projects.

Sec. 384. Technical capacity and standards.

Sec. 385. Study and standards.

Sec. 386. Condition for receipt of funds.

## TITLE IV—EMISSIONS DETERMINATIONS AND MISCELLANEOUS

- Sec. 401. Definitions.  
 Sec. 402. Federal Greenhouse Gas Registry, emissions determination, and uncovered sector emissions.  
 Sec. 403. Paramount interest waiver.  
 Sec. 404. Administrative procedure and judicial review.  
 Sec. 405. Retention of State authority.  
 Sec. 406. Tribal authority.  
 Sec. 407. Authorization of appropriations.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to establish the core of a Federal program  
 4 that will reduce United States greenhouse gas emis-  
 5 sions substantially enough between 2008 and 2050  
 6 to avert the catastrophic impacts of global climate  
 7 change;

8 (2) to raise revenue to be used for positive envi-  
 9 ronmental and social purposes to offset the effects of  
 10 climate change; and

11 (3) to accomplish that purpose while preserving  
 12 robust growth in the United States economy, cre-  
 13 ating new jobs, and avoiding the imposition of hard-  
 14 ship on United States citizens.

15 **TITLE I—GLOBAL COOPERATION**16 **Subtitle A—General Provisions**17 **SEC. 101. DEFINITIONS.**

18 In this title:

19 (1) ADMINISTRATOR.—The term “Adminis-  
 20 trator” means the Administrator of the Environ-  
 21 mental Protection Agency.

1 (2) BASELINE EMISSIONS LEVEL.—

2 (A) COVERED GOODS.—With respect to  
3 covered goods of a WTO participant, the term  
4 “baseline emissions level” means, as determined  
5 by the Commission, the total average annual  
6 greenhouse gas emissions attributed to a cat-  
7 egory of covered goods of the WTO participant  
8 during the period beginning on January 1,  
9 2010, and ending on December 31, 2012, based  
10 on—

11 (i) relevant data available for that pe-  
12 riod; and

13 (ii) to the extent necessary with re-  
14 spect to a specific category of covered  
15 goods, economic and engineering models  
16 and best available information on tech-  
17 nology performance levels for the manufac-  
18 ture of that category of covered goods.

19 (B) WTO PARTICIPANTS.—With respect to  
20 a WTO participant, the term “baseline emis-  
21 sions level” means, as determined by the Com-  
22 mission, the total annual nationwide greenhouse  
23 gas emissions attributed to the WTO partici-  
24 pant during the period beginning on January 1,

1           2010, and ending on December 31, 2012, based  
2           on best available information.

3           (3) BEST AVAILABLE INFORMATION.—The term  
4           “best available information” means—

5                   (A) all relevant data that is available for  
6                   the particular period; and

7                   (B) to the extent necessary, economic and  
8                   engineering models, best available information  
9                   on technology performance levels, and any other  
10                  useful measure or technique for estimating the  
11                  emissions from such emissions activities.

12           (4) CARBON DIOXIDE EQUIVALENT.—The term  
13           “carbon dioxide equivalent” means, for each green-  
14           house gas, the quantity of the greenhouse gas that  
15           the Administrator determines makes the same con-  
16           tribution to global warming as 1 metric ton of car-  
17           bon dioxide.

18           (5) COMMISSION.—The term “Commission”  
19           means the International Climate Change Commis-  
20           sion established under section 113.

21           (6) COMPARABLE ACTION.—The term “com-  
22           parable action” means any greenhouse gas regu-  
23           latory programs, requirements, and other measures  
24           adopted by a WTO participant that, in combination,  
25           are comparable in effect to actions carried out by

1 the United States, through Federal, State, and local  
2 measures, to limit greenhouse gas emissions pursu-  
3 ant to this Act and the amendments made by this  
4 Act, as determined by the Commission under section  
5 114.

6 (7) COMPLIANCE YEAR.—The term “compliance  
7 year” means each calendar year for which the re-  
8 quirements of this title apply to a category of cov-  
9 ered goods of a covered WTO participant that is im-  
10 ported into the United States.

11 (8) COVERED WTO PARTICIPANT.—The term  
12 “covered WTO participant” means a WTO partici-  
13 pant that is included on the covered list prepared  
14 under section 111 (b)(3).

15 (9) COVERED GOOD.—The term “covered good”  
16 means a good that (as identified by the Secretary,  
17 in consultation with the Administrator, by rule)—

18 (A) is a primary product or a manufac-  
19 tured item for consumption;

20 (B) generates, in the course of the manu-  
21 facture of the good, a substantial quantity of  
22 greenhouse gas emissions, including indirect  
23 greenhouse gas emissions; and

24 (C) is closely related to a good the cost of  
25 production of which in the United States is af-

1           fected by a requirement of this Act or the  
2           amendments made by this Act.

3           (10) EMISSION ALLOWANCE.—The term “emis-  
4           sion allowance” means an authorization to emit 1  
5           carbon dioxide equivalent of greenhouse gas.

6           (11) ENTER; ENTRY.—The terms “enter” and  
7           “entry” into the United States refer to the entry, or  
8           withdrawal from warehouse for consumption, in the  
9           customs territory of the United States.

10          (12) GREENHOUSE GAS.—The term “green-  
11          house gas” means any of—

12                   (A) carbon dioxide;

13                   (B) methane;

14                   (C) nitrous oxide;

15                   (D) sulfur hexafluoride;

16                   (E) a perfluorocarbon;

17                   (F) a hydrofluorocarbon; or

18                   (G) any other anthropogenically-emitted  
19           gas that is determined by the Administrator,  
20           after notice and comment, to contribute to glob-  
21           al warming to a non-negligible degree.

22          (13) GREENHOUSE GAS EMISSIONS.—The term  
23          “greenhouse gas emissions” means emissions of a  
24          greenhouse gas, including—

1 (A) stationary combustion source emissions  
2 emitted as a result of combustion of fuels in  
3 stationary equipment, such as boilers, furnaces,  
4 burners, turbines, heaters, incinerators, engines,  
5 flares, and other similar sources;

6 (B) process emissions consisting of emis-  
7 sions from chemical or physical processes other  
8 than combustion;

9 (C) fugitive emissions consisting of inten-  
10 tional and unintentional emissions from equip-  
11 ment leaks, such as joints, seals, packing, and  
12 gaskets, or from piles, pits, cooling towers, and  
13 other similar sources; and

14 (D) biogenic emissions resulting from bio-  
15 logical processes, such as anaerobic decomposi-  
16 tion, nitrification, and denitrification.

17 (14) INDIRECT GREENHOUSE GAS EMISSIONS.—

18 The term “indirect greenhouse gas emissions”  
19 means any greenhouse gas emissions resulting from  
20 the generation of electricity that is consumed during  
21 the manufacture of a good.

22 (15) INTERNATIONAL RESERVE ALLOWANCE.—

23 The term “international reserve allowance” means  
24 an allowance (denominated in units of metric tons of  
25 carbon dioxide equivalent) that is—

1 (A) purchased from a special reserve of  
2 emission allowances pursuant to section  
3 111(a)(2); and

4 (B) used for purposes of meeting the re-  
5 quirements of section 111.

6 (16) MANUFACTURED ITEM FOR CONSUMP-  
7 TION.—The term “manufactured item for consump-  
8 tion” means any good or product—

9 (A) that is not a primary product;

10 (B) that generates, in the course of its  
11 manufacture, a substantial amount of direct  
12 greenhouse gas emissions or indirect greenhouse  
13 gas emissions, including such emissions that are  
14 attributable to the inclusion of a primary prod-  
15 uct in the manufactured item for consumption;  
16 and

17 (C) for which the Commission determines  
18 that the application of an international reserve  
19 allowance requirement under section 111 to the  
20 particular category of goods or products is ad-  
21 ministratively feasible and necessary to achieve  
22 the purposes of this title.

23 (17) PERCENTAGE CHANGE IN GREENHOUSE  
24 GAS EMISSIONS.—The term “percentage change in  
25 greenhouse gas emissions” means, as determined by

1 the Secretary, in consultation with the Adminis-  
2 trator, the percentage by which greenhouse gas  
3 emissions on a nationwide basis in a WTO partici-  
4 pant has decreased or increased (as the case may  
5 be) from the baseline emissions level of the WTO  
6 participant. The percentage change for a WTO par-  
7 ticipant shall equal the quotient obtained by divid-  
8 ing—

9 (A) the amount of the decrease or increase  
10 in the total nationwide emissions for the WTO  
11 participant, as measured by comparing such  
12 total emissions for the relevant calendar year,  
13 to the baseline emissions level for the WTO  
14 participant; by

15 (B) the baseline emissions level for the  
16 WTO participant.

17 (18) PRIMARY PRODUCT.—The term “primary  
18 product” means—

19 (A) iron, steel, aluminum, cement, bulk  
20 glass, paper pulp, chemicals, or industrial ce-  
21 ramics; or

22 (B) any other manufactured product  
23 that—

24 (i) is sold in bulk for purposes of fur-  
25 ther manufacture; and

1 (ii) generates, in the course of the  
2 manufacture of the product, greenhouse  
3 gas emissions and indirect greenhouse gas  
4 emissions that are comparable (on an  
5 emissions-per-dollar basis) to emissions  
6 generated in the manufacture of products  
7 by covered facilities in the industrial sec-  
8 tor.

9 (19) RETIRE AN ALLOWANCE.—To “retire” an  
10 allowance is to disqualify the allowance for any sub-  
11 sequent use, regardless of whether the use is a sale,  
12 exchange, or submission of the allowance in satis-  
13 fying a compliance obligation.

14 (20) SECRETARY.—The term “Secretary”  
15 means the Secretary of the Treasury.

16 (21) SEQUESTRATION.—The term “sequestra-  
17 tion” means the capture, permanent separation, iso-  
18 lation, or removal of greenhouse gases from the at-  
19 mosphere, as determined by the Secretary, after con-  
20 sultation with the Administrator.

21 (22) TRADE AGREEMENT.—The term “trade  
22 agreement” means any agreement between the  
23 United States and one or more foreign countries  
24 providing for the reduction of tariff or nontariff bar-  
25 riers, including the Agreement establishing the

1 World Trade Organization, done at Marrakesh on  
2 April 15, 1994.

3 (23) U.S. CUSTOMS AND BORDER PROTEC-  
4 TION.—The term “U.S. Customs and Border Pro-  
5 tection” means U.S. Customs and Border Protection  
6 of the Department of Homeland Security.

7 (24) WTO PARTICIPANT.—The term “WTO  
8 participant” means a member of, or observer govern-  
9 ment to, the World Trade Organization (WTO),  
10 other than the United States.

## 11 **Subtitle B—International Reserve** 12 **Allowances**

### 13 **SEC. 111. INTERNATIONAL RESERVE ALLOWANCE PRO-** 14 **GRAM.**

15 (a) ESTABLISHMENT.—

16 (1) IN GENERAL.—The Secretary shall establish  
17 a program under which the Secretary, during the 1-  
18 year period beginning on January 1, 2014, and an-  
19 nually thereafter, shall offer for sale to United  
20 States importers international reserve allowances in  
21 accordance with this subsection.

22 (2) SOURCE.—International reserve allowances  
23 under paragraph (1) shall be issued from a special  
24 reserve of emission allowances that is separate from,  
25 and established in addition to, the quantity of emis-

1 sion allowances established under section 9911 of  
2 the Internal Revenue Code of 1986.

3 (3) PRICE.—

4 (A) IN GENERAL.—Subject to subpara-  
5 graph (B), the Secretary shall establish, by  
6 rule, a methodology for determining the price of  
7 international reserve allowances for each com-  
8 pliance year at a level that does not exceed the  
9 market price of emission allowances established  
10 under section 9911 of the Internal Revenue  
11 Code of 1986 for the compliance year.

12 (B) MAXIMUM PRICE.—The price for an  
13 international reserve allowance under subpara-  
14 graph (A) shall not exceed the clearing price for  
15 current compliance year allowances established  
16 at the most recent auction of allowances under  
17 section 9912 of the Internal Revenue Code of  
18 1986.

19 (4) SERIAL NUMBER.—The Secretary shall as-  
20 sign a unique serial number to each international re-  
21 serve allowance issued under this subsection.

22 (5) ADMINISTRATION OF SYSTEM.—The Sec-  
23 retary may provide, by rule, for the administration  
24 of the system of international reserve allowances in  
25 a manner consistent with the carbon market estab-

1 lished under subtitle L of the Internal Revenue Code  
2 of 1986.

3 (6) REGULATED ENTITIES.—International re-  
4 serve allowances may not be submitted by persons  
5 subject to the allowance submission requirements of  
6 section 9901 or 9913 of the Internal Revenue Code  
7 of 1986 to comply with such allowance submission  
8 requirements.

9 (7) PROCEEDS.—All proceeds from the sale of  
10 international reserve allowances under this sub-  
11 section shall be allocated to a program that the Sec-  
12 retary, in coordination with the Secretary of State,  
13 shall establish to mitigate the negative impacts of  
14 global climate change on disadvantaged communities  
15 in WTO participants.

16 (b) WTO PARTICIPANT LISTS.—

17 (1) IN GENERAL.—Not later than January 1,  
18 2015, and annually thereafter, the Secretary shall  
19 develop and publish in the Federal Register 2 lists  
20 of WTO participants, in accordance with this sub-  
21 section.

22 (2) EXCLUDED LIST.—

23 (A) IN GENERAL.—The Secretary, in con-  
24 sultation with the Commission, shall identify

1 and publish in a list, to be known as the “ex-  
2 cluded list”—

3 (i) each WTO participant determined  
4 by the Commission under section 114(a) to  
5 have taken action comparable to that taken  
6 by the United States to limit the green-  
7 house gas emissions of the WTO partici-  
8 pant;

9 (ii) each WTO participant that has  
10 entered into an agreement with the United  
11 States under subsection (a) or (b) of sec-  
12 tion 115;

13 (iii) each WTO participant the share  
14 of total global greenhouse gas emissions of  
15 which is below the de minimis percentage  
16 described in subparagraph (B); and

17 (iv) each WTO participant that the  
18 United Nations has identified as among  
19 the least developed of developing countries.

20 (B) DE MINIMIS PERCENTAGE.—The de  
21 minimis percentage referred to in subparagraph  
22 (A) is a percentage of total global greenhouse  
23 gas emissions of not more than 0.5, as deter-  
24 mined by the Commission, for the most recent  
25 calendar year for which emissions and other rel-

1           evant data is available, taking into consider-  
2           ation, as necessary, the annual average defor-  
3           estation rate during a representative period for  
4           a WTO participant that is a developing coun-  
5           try.

6           (3) COVERED LIST.—

7                 (A) IN GENERAL.—The Secretary, in con-  
8                 sultation with the Commission, shall identify  
9                 and publish in a list, to be known as the “cov-  
10                ered list”, each WTO participant the covered  
11                goods of which are subject to the requirements  
12                of this section.

13               (B) REQUIREMENT.—The covered list shall  
14               include each WTO participant that is not in-  
15               cluded on the excluded list under paragraph  
16               (2).

17           (4) PRESIDENTIAL AUTHORITY.—Notwith-  
18           standing paragraphs (2) and (3), the President may  
19           require the Commission to place a WTO participant  
20           on the excluded list or covered list if the President  
21           determines such action is necessary to protect essen-  
22           tial security interests of the United States.

23           (c) PUBLICATION OF COVERED GOODS.—The Sec-  
24           retary, in consultation with the Commission, shall publish

1 a list of all covered goods of each WTO participant on  
2 the covered list.

3 (d) WRITTEN DECLARATIONS.—

4 (1) IN GENERAL.—Effective beginning January  
5 1, 2015, a United States importer of any covered  
6 good shall, as a condition of the entry of the covered  
7 good into the United States, submit to the Secretary  
8 and the appropriate office of U.S. Customs and Bor-  
9 der Protection a written declaration, with respect to  
10 each such entry, that meets the requirements of this  
11 subsection.

12 (2) CONTENTS.—A written declaration under  
13 paragraph (1) shall contain a statement that—

14 (A) the applicable covered good is accom-  
15 panied by a sufficient number of international  
16 reserve allowances, as determined under sub-  
17 section (e); or

18 (B) the covered good is from a WTO par-  
19 ticipant on the excluded list under subsection  
20 (b)(2).

21 (3) DOCUMENTATION AND DEPOSIT.—If an im-  
22 porter does not certify that the covered good is a  
23 product of a WTO participant on the excluded list  
24 under paragraph (2)(B), the written declaration for

1 such good shall include the following supporting doc-  
2 umentation and deposit:

3 (A) The name of each WTO participant in  
4 which the covered good was manufactured or  
5 processed.

6 (B) A brief description of the extent to  
7 which the covered good was manufactured or  
8 processed in each WTO participant identified  
9 under subparagraph (A).

10 (C) An estimation of the number of inter-  
11 national reserve allowances that are required  
12 for entry of the covered good into the United  
13 States under subsection (e).

14 (D) At the election of the importer, the de-  
15 posit of—

16 (i) international reserve allowances in  
17 an amount equal to the estimated number  
18 required for entry under subparagraph (C);  
19 or

20 (ii) a bond, other security, or cash in  
21 an amount that covers the purchase of the  
22 estimated number of international reserve  
23 allowances under subparagraph (C).

24 (4) FINAL ASSESSMENT.—

1 (A) IN GENERAL.—Not later than 6  
2 months after submission of the written declara-  
3 tion and entry of the covered good under para-  
4 graph (1), the Secretary shall make a final as-  
5 sessment of the international reserve allowance  
6 requirement for the covered good under this  
7 section. The final assessment shall specify the  
8 total number of international reserve allowances  
9 that are required for entry of the covered good  
10 into the United States and whether the amount  
11 of the deposit under paragraph (3)(D) is lower  
12 or higher than the final assessment..

13 (B) RECONCILIATION.—

14 (i) ALLOWANCE DEPOSIT.—U.S. Cus-  
15 toms and Border Protection shall promptly  
16 reconcile the final assessment with the  
17 amount of international reserve allowances  
18 deposited under paragraph (3)(D)(i). If  
19 international reserve allowances are depos-  
20 ited in an amount that is more than the  
21 final assessment, U.S. Customs and Bor-  
22 der Protection shall refund the excess  
23 amount. If such allowances are deposited  
24 in an amount that is less than final assess-  
25 ment, the importer shall tender within 14

1 days sufficient allowances to satisfy fully  
2 the final assessment.

3 (ii) BOND, SECURITY, OR CASH DE-  
4 POSIT.—If an importer has submitted a  
5 bond, security, or cash deposit under para-  
6 graph (3)(D), U.S. Customs and Border  
7 Protection shall use the deposit to pur-  
8 chase a sufficient number of international  
9 reserve allowances, as determined in the  
10 final assessment under subparagraph (A).  
11 To the extent that the deposit fails to  
12 cover the purchase of sufficient inter-  
13 national reserve allowances, the importer  
14 shall submit such additional allowances to  
15 cover the shortfall of allowances. To the  
16 extent that the amount of the deposit is  
17 more than the amount of the final assess-  
18 ment, U.S. Customs and Border Protection  
19 shall refund to the importer the unused  
20 portion of the deposit.

21 (5) INCLUSION.—A written declaration under  
22 this subsection shall include the unique serial num-  
23 ber of each international reserve allowance associ-  
24 ated with the entry of the applicable covered good  
25 into the United States.

1           (6) FAILURE TO DECLARE.—A covered good  
2 that is not accompanied by a written declaration  
3 that meets the requirements of this subsection shall  
4 not be permitted to be entered into the United  
5 States.

6           (7) CORRECTED DECLARATION.—

7           (A) IN GENERAL.—If, after making a dec-  
8 laration required under this subsection, an im-  
9 porter has reason to believe that the declaration  
10 contains information that is not correct, the im-  
11 porter shall provide a corrected declaration by  
12 not later than 30 days after the date of dis-  
13 covery of the error, in accordance with subpara-  
14 graph (B).

15           (B) METHOD.—A corrected declaration  
16 under subparagraph (A) shall be in the form of  
17 a letter or other written statement to the Sec-  
18 retary and to the office of U.S. Customs and  
19 Border Protection to which the original declara-  
20 tion was submitted.

21       (e) QUANTITY OF ALLOWANCES REQUIRED.—

22           (1) METHODOLOGY.—

23           (A) IN GENERAL.—The Secretary shall es-  
24 tablish, by rule, a method for calculating the re-  
25 quired number of international reserve allow-

1           ances that a United States importer must sub-  
2           mit, together with a written declaration under  
3           subsection (d), for each category of covered  
4           goods of each covered WTO participant.

5           (B) FORMULA.—The Secretary shall de-  
6           velop a general formula for calculating the  
7           international reserve allowance requirement  
8           that applies, on a per unit basis, to each cov-  
9           ered good of a covered WTO participant that is  
10          imported during each compliance year.

11          (2) GENERAL FORMULA.—The international al-  
12          lowance reserve requirement, as described in para-  
13          graph (1), for a compliance year is equal to the  
14          product obtained by multiplying—

15                (A) the national greenhouse gas intensity  
16                rate for each category of covered goods of each  
17                covered WTO participant for the compliance  
18                year, as determined by the Secretary under  
19                paragraph (3), by

20                (B) the allowance adjustment factor for  
21                the industry sector in the WTO participant that  
22                manufactured the covered goods that entered  
23                into the United States, as determined by the  
24                Secretary under paragraph (4), by

1 (C) the economic adjustment ratio for the  
2 WTO participant, as determined by the Com-  
3 mission under paragraph (5).

4 (3) NATIONAL GREENHOUSE GAS INTENSITY  
5 RATE.—The national greenhouse gas intensity rate  
6 for a particular WTO participant under paragraph  
7 (2)(A), on a per unit basis, shall be equal to the  
8 quotient obtained by dividing—

9 (A) the total amount of direct greenhouse  
10 gas emissions and indirect greenhouse gas emis-  
11 sions that are attributable to a category of cov-  
12 ered goods of a covered WTO participant dur-  
13 ing the most recent calendar year (as adjusted  
14 to exclude those emissions that would not be  
15 subject to the allowance submission require-  
16 ments of section 9913 of the Internal Revenue  
17 Code of 1986 or the category of covered goods  
18 if manufactured in the United States), by

19 (B) the total number of units of the par-  
20 ticular covered good that are produced in the  
21 covered WTO participant during the same cal-  
22 endar year.

23 (4) ALLOWANCE ADJUSTMENT FACTOR.—

24 (A) GENERAL FORMULA.—The allowance  
25 adjustment factor for a particular WTO partici-

1           pant under paragraph (2)(B) for a compliance  
2           year shall be equal to 1 minus the ratio that—

3                   (i) the number of allowances, as deter-  
4                   mined by the Secretary under subpara-  
5                   graph (B), that the entire industry sector  
6                   in the WTO participant would have re-  
7                   ceived for that compliance year at no cost  
8                   if such allowances were allocated in the  
9                   same manner that allowances are allocated  
10                  at no cost under subtitle L of the Internal  
11                  Revenue Code of 1986 to the same indus-  
12                  try sector in the United States, bears to

13                   (ii) the total amount of direct green-  
14                   house gas emissions and indirect green-  
15                   house gas emissions that are attributable  
16                   to a category of covered goods of the cov-  
17                   ered WTO participant during that compli-  
18                   ance year.

19           (B) ALLOWANCES ALLOCATED AT NO  
20           COST.—The number of allowances allocated at  
21           no cost under subparagraph (A)(i) shall be  
22           equal to the product obtained by multiplying—

23                   (i) the baseline emissions level that  
24                   the Commission has attributed to a cat-

1 category of covered goods of the WTO partici-  
2 pant, by

3 (ii) the ratio that—

4 (I) the quantity of allowances  
5 that are allocated at no cost under  
6 subtitle L of the Internal Revenue  
7 Code of 1986 to entities within the in-  
8 dustry sector that manufactures the  
9 covered goods for the compliance year  
10 during which the covered goods were  
11 entered into the United States, bears  
12 to

13 (II) the total amount of direct  
14 greenhouse gas emissions and indirect  
15 greenhouse gas emissions of that sec-  
16 tor during a particular compliance  
17 year.

18 (5) ECONOMIC ADJUSTMENT RATIO.—The eco-  
19 nomic adjustment ratio for a particular WTO partici-  
20 pant under paragraph (2)(C) shall be 1 unless the  
21 Commission makes an affirmative decision to lower  
22 the ratio in order to take into account the extent to  
23 which the WTO participant has fully implemented,  
24 verified, and enforced the following:

1 (A) The deployment and use of state-of-  
2 the-art technologies in industrial processes,  
3 equipment manufacturing facilities, power gen-  
4 eration and other energy facilities, and con-  
5 sumer goods (such as automobiles and appli-  
6 ances), and implementation of other techniques  
7 or actions that have the effect of limiting green-  
8 house gas emissions in the WTO participant  
9 during the relevant period.

10 (B) Any regulatory programs, require-  
11 ments, and other measures that the WTO par-  
12 ticipant has implemented to limit greenhouse  
13 emissions during the relevant period.

14 (6) ANNUAL CALCULATION.—The Secretary  
15 shall calculate the international reserve allowance re-  
16 quirements for each compliance year based on the  
17 best available information and annually revise the  
18 applicable international reserve allowance require-  
19 ments to reflect changes in the variables of the for-  
20 mula described in this subsection.

21 (7) PUBLICATION.—Not later than 90 days be-  
22 fore the beginning of each compliance year, the Sec-  
23 retary shall publish in the Federal Register a sched-  
24 ule describing the required number of international  
25 reserve allowances for each category of imported cov-

1       ered goods of each covered WTO participant, as cal-  
2       culated under this subsection.

3               (8) COVERED GOODS FROM MULTIPLE COUN-  
4       TRIES.—

5               (A) IN GENERAL.—The Secretary shall es-  
6       tablish, by rule, procedures for determining the  
7       number of the international reserve allowances  
8       that a United States importer must submit  
9       under this subsection for a category of covered  
10      goods that are primary products and manufac-  
11      tured or processed in more than one WTO par-  
12      ticipant. Subject to subparagraph (B), such  
13      procedures shall require the importer—

14              (i) to determine for each covered  
15      WTO participant listed in the written dec-  
16      laration, as required by subsection (d), the  
17      number of international reserve allowances  
18      that apply under paragraph (2) of this  
19      subsection to the category of covered goods  
20      that are manufactured and processed en-  
21      tirely in that covered WTO participant for  
22      the particular compliance year; and

23              (ii) of the international reserve allow-  
24      ance requirements identified under clause  
25      (i) for particular covered WTO partici-

1 pants, to apply the requirement that im-  
2 poses the highest number of international  
3 reserve allowances for the category of cov-  
4 ered goods.

5 (B) EXCEPTION.—The procedures for set-  
6 ting the international reserve allowance require-  
7 ment under subparagraph (A) shall not apply if  
8 the Secretary grants a request by the importer  
9 to apply an alternate method for establishing  
10 such requirement. The Secretary shall grant  
11 such a request only if the importer dem-  
12 onstrates in an administrative hearing by a pre-  
13 ponderance of evidence that the alternate meth-  
14 od will establish an international reserve allow-  
15 ance requirement that is more representative  
16 than the requirement applicable under subpara-  
17 graph (A).

18 (C) ADMINISTRATIVE HEARING.—The Sec-  
19 retary shall establish procedures for administra-  
20 tive hearings under subparagraph (B) to ensure  
21 that—

22 (i) all evidence submitted by an im-  
23 porter will be subject to verification by the  
24 Secretary;

1           (ii) domestic manufacturers of the  
2           category of covered goods subject to the  
3           administrative hearing under this para-  
4           graph will have an opportunity to review  
5           and comment on evidence submitted by the  
6           importer; and

7           (iii) appropriate penalties will be as-  
8           sessed in cases where the importer has  
9           submitted information that is false or mis-  
10          leading.

11          (f) FOREIGN ALLOWANCES.—

12           (1) FOREIGN ALLOWANCES UNDER CAP AND  
13          TRADE PROGRAM.—

14           (A) IN GENERAL.—A United States im-  
15          porter may submit, in lieu of an international  
16          reserve allowance issued under this section, a  
17          foreign allowance distributed by a WTO partici-  
18          pant pursuant to a commensurate cap and  
19          trade program.

20           (B) COMMENSURATE CAP AND TRADE PRO-  
21          GRAM.—For purposes of subparagraph (A), a  
22          commensurate cap and trade program shall in-  
23          clude any greenhouse gas regulatory program  
24          adopted by a covered WTO participant to limit

1 the greenhouse gas emissions of the covered  
2 WTO participant, if—

3 (i) the Secretary certifies that the  
4 program—

5 (I)(aa) places a quantitative limi-  
6 tation on the total quantity of green-  
7 house gas emissions of the covered  
8 WTO participant (expressed in terms  
9 of tons emitted per calendar year);  
10 and

11 (bb) achieves that limitation  
12 through an allowance trading system;

13 (II) satisfies such criteria as the  
14 Secretary may establish for require-  
15 ments relating to the enforceability of  
16 the cap and trade program, including  
17 requirements for monitoring, report-  
18 ing, verification procedures, allowance  
19 tracking, and offsets; and

20 (III) is a comparable action, as  
21 determined by the Commission; or

22 (ii) the program is the result of an  
23 agreement under section 115(b).

24 (2) INTERNATIONAL FOREST ALLOWANCES.—A  
25 United States importer may submit, in lieu of an

1 international reserve allowance issued under this sec-  
2 tion, an international forest allowance generated  
3 under an agreement to undertake international for-  
4 est carbon activities under section 115(c).

5 (3) TRADING OF FOREIGN ALLOWANCES.—For-  
6 eign allowances described in paragraphs (1) and (2)  
7 may be traded on the carbon market established  
8 under subtitle L of the Internal Revenue Code of  
9 1986.

10 (g) RETIREMENT OF ALLOWANCES.—The Secretary  
11 shall retire each international reserve allowance and for-  
12 eign allowance submitted to achieve compliance with this  
13 section.

14 (h) CONSISTENCY WITH TRADE AND OTHER INTER-  
15 NATIONAL AGREEMENTS.—The Secretary, in consultation  
16 with the Secretary of State, shall adjust the international  
17 reserve allowance requirements established under this sec-  
18 tion (including the quantity of international reserve allow-  
19 ances required for each category of covered goods of a cov-  
20 ered WTO participant) as the Secretary determines to be  
21 necessary to ensure that the United States complies with  
22 all applicable trade agreements and other international  
23 agreements to which the United States is a party.

24 (i) FINAL REGULATIONS.—Not later than January 1,  
25 2014, the Secretary shall promulgate such regulations as

1 the Secretary determines to be necessary to carry out this  
2 section.

3 **SEC. 112. ADJUSTMENT OF INTERNATIONAL RESERVE AL-**  
4 **LOWANCE REQUIREMENTS.**

5 (a) IN GENERAL.—Not later than January 1, 2018,  
6 and annually thereafter, the Commission shall prepare and  
7 submit to Congress a report that assesses the effectiveness  
8 of the applicable international reserve allowance require-  
9 ments under section 111 with respect to—

10 (1) covered goods that are entered into the  
11 United States from each covered WTO participant;  
12 and

13 (2) the production of covered goods in covered  
14 WTO participants that are incorporated into manu-  
15 factured goods that subsequently are entered into  
16 the United States.

17 (b) INADEQUATE REQUIREMENTS.—If the Commis-  
18 sion determines that an applicable international reserve al-  
19 lowance requirement is not adequate to achieve the pur-  
20 poses of this title, the Commission, simultaneously with  
21 the submission of the report under subsection (a), shall  
22 make recommendations to—

23 (1) increase the stringency or otherwise improve  
24 the effectiveness of the applicable requirements in a  
25 manner that ensures compliance with all applicable

1 trade agreements and other international agree-  
2 ments;

3 (2) take action to address greenhouse gas emis-  
4 sions that are attributable to the production of man-  
5 ufactured items for consumption that are not subject  
6 to the international reserve allowance requirements  
7 under section 111; or

8 (3) take such other action as the Commission  
9 determines to be necessary to address greenhouse  
10 gas emissions that are attributable to the production  
11 of covered goods in covered WTO participants, in  
12 compliance with all applicable trade agreements and  
13 other international agreements.

14 (c) REVISED REGULATIONS.—The Secretary, in con-  
15 sultation with the Commission, shall promulgate revised  
16 regulations to implement the recommended changes under  
17 subsection (b) to improve the effectiveness of the inter-  
18 national reserve allowance requirements.

19 (d) EFFECTIVE DATE.—Any revision made under  
20 subsection (c) shall take effect on January 1 of the first  
21 compliance year beginning after the date on which the re-  
22 vision is made.

1 **SEC. 113. INTERNATIONAL CLIMATE CHANGE COMMISSION.**

2 (a) ESTABLISHMENT.—There is established a com-  
3 mission that shall be known as the “International Climate  
4 Change Commission”.

5 (b) ORGANIZATION.—

6 (1) MEMBERSHIP.—The Commission shall be  
7 composed of 6 commissioners who shall be appointed  
8 by the President, by and with the advice and consent  
9 of the Senate. A person shall not be eligible for ap-  
10 pointment as a commissioner unless that person—

11 (A) is a citizen of the United States; and

12 (B) has, in the judgment of the President,  
13 the requisite qualifications for developing the  
14 knowledge and expertise on international cli-  
15 mate change matters that are necessary for per-  
16 forming the duties and functions of the Com-  
17 mission under this title.

18 (2) APPOINTMENTS OF COMMISSIONERS.—Not  
19 later than 3 months after date of the enactment of  
20 this Act, the President shall appoint the commis-  
21 sioners in accordance with this subsection. If the  
22 President fails to appoint one or more of the com-  
23 missioners under this paragraph by the end of that  
24 3-month period, then—

25 (A) the United States International Trade  
26 Commission shall, within the succeeding 3-

1 month period, appoint the remaining commis-  
2 sioners; and

3 (B) the authority of the President to ap-  
4 point the remaining commissioners terminates.

5 (3) POLITICAL AFFILIATION.—Not more than 3  
6 of the commissioners serving at any time shall be af-  
7 filiated with the same political party. In making the  
8 appointments, members of different parties shall be  
9 appointed alternatively as nearly as may be prac-  
10 ticable.

11 (4) TERM OF COMMISSIONERS; REAPPOINT-  
12 MENT.—

13 (A) IN GENERAL.—The term of a commis-  
14 sioner shall be 12 years, except that commis-  
15 sioners first taking office under paragraph (2)  
16 shall be appointed to the Commission in a man-  
17 ner that ensures that—

18 (i) the term of not more than 1 mem-  
19 ber shall expire during any 2-year period;  
20 and

21 (ii) no commissioner serves a term of  
22 more than 12 years.

23 (B) SERVICE UNTIL NEW APPOINTMENT.—  
24 The term of a commissioner shall continue after  
25 the expiration of that commissioner's term until

1 the date on which a replacement is appointed  
2 by the President and confirmed by the Senate,  
3 except that the successor's term begins upon  
4 the original expiration of the predecessor's  
5 term.

6 (C) VACANCY.—Any commissioner ap-  
7 pointed to fill a vacancy occurring before the  
8 expiration of the term for which the predecessor  
9 was appointed shall be appointed for the re-  
10 mainder of the term.

11 (D) REAPPOINTMENT.—A person who has  
12 served as commissioner for more than 7 years  
13 shall not be eligible for reappointment.

14 (5) CHAIRPERSON AND VICE-CHAIRPERSON.—

15 (A) IN GENERAL.—The President shall  
16 designate a Chairperson and Vice Chairperson  
17 of the Commission from the commissioners that  
18 are eligible for designation under subparagraph  
19 (B). The Chairperson and Vice-Chairperson  
20 shall each serve for a term of 4 years. If the  
21 President fails to designate the Chairperson for  
22 any term, the commissioner with the longest pe-  
23 riod of continuous service shall serve as Chair-  
24 person for that term.

25 (B) ELIGIBILITY REQUIREMENTS.—

1 (i) CHAIRPERSON.—The President  
2 may designate as the Chairperson of the  
3 Commission for any term any commis-  
4 sioner who is not affiliated with the polit-  
5 ical party with which the Chairperson of  
6 the Commission for the immediately pre-  
7 ceding year is affiliated, and who (except  
8 in the case of the first commissioners) has  
9 at least 1 year of continuous service as a  
10 commissioner.

11 (ii) VICE-CHAIRPERSON.—The Presi-  
12 dent may designate as the Vice Chair-  
13 person of the Commission for any term  
14 any commissioner who is not affiliated with  
15 the political party with which the Chair-  
16 person is affiliated.

17 (6) VOTING.—

18 (A) IN GENERAL.—The Commission shall  
19 vote on the adoption of each action that is iden-  
20 tified in subparagraph (D). Such a vote on a  
21 Commission action shall occur at a public meet-  
22 ing of the Commission for which a quorum is  
23 present. A majority of commissioners that are  
24 in office shall constitute a quorum for a meet-  
25 ing of the Commission.

1           (B) ADOPTION.—A Commission action  
2 identified in subparagraph (D) shall take effect  
3 upon adoption by the Commission in accordance  
4 with the requirements of this paragraph. Sub-  
5 ject to subparagraph (C), the adoption of a  
6 Commission action shall occur if a majority of  
7 the commissioners in attendance at the meeting  
8 (as well as any commissioners voting by proxy)  
9 vote in favor of such action.

10           (C) EQUALLY DIVIDED VOTES.—In cases  
11 when the commissioners voting are equally di-  
12 vided on whether or not a WTO participant has  
13 taken comparable action under section 114, the  
14 Commission shall be deemed to have made an  
15 affirmative determination that the WTO partic-  
16 ipant has not taken comparable action.

17           (D) COMMISSION ACTIONS.—A Commis-  
18 sion action for purposes of this paragraph shall  
19 include the performance of the duties specified  
20 under subsection (e) and the exercise of the en-  
21 forcement powers authorized under subsection  
22 (d).

23           (e) DUTIES.—The duties of the Commission shall in-  
24 clude—

1           (1) determinations on whether a WTO partici-  
2           pant is taking comparable action under section 114;

3           (2) establishment of WTO participant lists  
4           under section 111(b);

5           (3) classification of a category of goods or prod-  
6           ucts as a manufactured item for consumption under  
7           section 101(16)(C);

8           (4) adjustment of the international reserve al-  
9           lowance requirements pursuant to section 112; and

10          (5) performance of other actions that are nec-  
11          essary for the implementation of the provisions of  
12          this title.

13          (d) ENFORCEMENT POWERS.—

14           (1) PENALTY FOR NONCOMPLIANCE.—The  
15           Commission may impose an excess emissions penalty  
16           on a United States importer of covered goods if that  
17           importer fails to submit the required number of  
18           international reserve allowances under section 111.  
19           Such penalty for noncompliance shall be equal to the  
20           amount of an excess emissions penalty that an  
21           owner or operator of a covered facility is required to  
22           submit for noncompliance under section 9901 of the  
23           Internal Revenue Code of 1986.

24           (2) PROHIBITION ON IMPORTERS.—The Com-  
25           mission may prohibit a United States importer from

1 entering covered goods into the United States for a  
2 period not to exceed 5 years if that importer—

3 (A) fails to pay a penalty for noncompli-  
4 ance imposed under paragraph (1); or

5 (B) submits a written declaration under  
6 section 111(d) that provides false or misleading  
7 information for the purpose of circumventing  
8 the international reserve requirements of this  
9 title.

10 (3) DELEGATION.—The Commission, as appro-  
11 priate, may delegate to U.S. Customs and Border  
12 Protection the enforcement powers that are author-  
13 ized under this subsection. U.S. Customs and Bor-  
14 der Protection shall exercise such enforcement pow-  
15 ers in accordance with procedures and requirements  
16 that the Commission may establish.

17 **SEC. 114. DETERMINATIONS OF COMPARABLE ACTION.**

18 (a) DETERMINATIONS.—

19 (1) ANNUAL DETERMINATIONS.—Not later than  
20 January 1, 2014, and annually thereafter, the Com-  
21 mission shall determine whether, and the extent to  
22 which, each WTO participant that is not exempted  
23 under subsection (b) has taken comparable action  
24 during the preceding 1-year period to limit the  
25 greenhouse gas emissions of the WTO participant,

1 taking into consideration the baseline emissions lev-  
2 els of the WTO participant.

3 (2) BASIS FOR DETERMINATIONS.—The Com-  
4 mission shall make a determination on whether a  
5 WTO participant has taken comparable action for a  
6 particular year under paragraph (1) based on the  
7 best available information and in accordance with  
8 the following requirements:

9 (A) A WTO participant shall be considered  
10 to have taken comparable action if the Commis-  
11 sion determines that the percentage change in  
12 greenhouse gas emissions in the WTO partici-  
13 pant during the relevant period is equal to, or  
14 better than, the percentage change in green-  
15 house emissions in the United States during  
16 that same period.

17 (B) In the case of a WTO participant that  
18 is not considered to have taken comparable ac-  
19 tion under subparagraph (A), the Commission  
20 shall take into consideration, in making a deter-  
21 mination on comparable action for that WTO  
22 participant, the extent to which the following  
23 actions have been taken, implemented, verified,  
24 and enforced:

1 (i) The deployment and use of state-  
2 of-the-art technologies in industrial proc-  
3 esses, equipment manufacturing facilities,  
4 power generation and other energy facili-  
5 ties, and consumer goods (such as auto-  
6 mobiles and appliances), and implementa-  
7 tion of other techniques or actions that  
8 have the effect of limiting greenhouse gas  
9 emissions in the WTO participant during  
10 the relevant period.

11 (ii) Any regulatory programs, require-  
12 ments, and other measures that the WTO  
13 participant has implemented to limit  
14 greenhouse emissions during the relevant  
15 period.

16 (C) If a WTO participant is a party to an  
17 international climate change agreement that im-  
18 poses binding greenhouse gas emissions limita-  
19 tions on the WTO participant, the Commission  
20 shall give appropriate credit for net transfers to  
21 the WTO participant of greenhouse gas emis-  
22 sions allowances or other units issued with re-  
23 spect to emissions reductions or sequestrations  
24 in other WTO participants pursuant to such  
25 international agreement.

1           (D) The Commission shall ensure that any  
2           determination on comparable action that the  
3           Commission makes under this paragraph com-  
4           plies with applicable trade agreements and  
5           other international agreements.

6           (b) EXEMPTIONS.—The Commission shall exempt  
7           from a determination under subsection (a) in a calendar  
8           year any WTO participant that is placed on the excluded  
9           list pursuant to clause (ii), (iii), or (iv) of section  
10          111(b)(2)(A) for that calendar year.

11          (c) REPORTS.—The Commission shall, as expedi-  
12          tiously as practicable—

13           (1) submit to the President and Congress an  
14           annual report describing the determinations of the  
15           Commission under subsection (a) for the most recent  
16           calendar year; and

17           (2) publish the determinations in the Federal  
18           Register.

19          (d) REPORTS.—The President shall—

20           (1) submit to Congress an annual report de-  
21           scribing the determinations of the President under  
22           subsection (a) for the most recent calendar year; and

23           (2) publish the determinations in the Federal  
24           Register.

1 **SEC. 115. INTERNATIONAL AGREEMENTS.**

2 (a) NEGOTIATING OBJECTIVE.—

3 (1) STATEMENT OF POLICY.—Consistent with  
4 the obligations of the United States under the World  
5 Trade Organization, it is the policy of the United  
6 States to work proactively under the United Nations  
7 Framework Convention on Climate Change and in  
8 other appropriate forums to establish binding agree-  
9 ments representing comparable action and commit-  
10 ting all major greenhouse gas-emitting WTO partici-  
11 pants to contribute equitably to the reduction of  
12 global greenhouse gas emissions. Any such agree-  
13 ment shall be considered comparable action only if  
14 it includes a maximum level on net greenhouse gas  
15 emissions into the atmosphere.

16 (2) INTENT OF CONGRESS REGARDING OBJEC-  
17 TIVE.—To the extent that the agreements described  
18 in paragraph (1) involve measures that will affect  
19 international trade in any good or service, it is the  
20 intent of the Congress that the negotiating objective  
21 of the United States shall be to focus multilateral  
22 and bilateral international agreements on the reduc-  
23 tion of greenhouse gas emissions.

24 (3) ROLE OF THE PRESIDENT.—The President  
25 shall be responsible for negotiating agreements  
26 under this subsection.

1 (b) PREMIUM CARBON MARKET ACCESS AGREE-  
2 MENTS.—

3 (1) AVAILABILITY.—In negotiations described  
4 in subsection (a), the President shall place a high  
5 priority on securing agreements that ensure com-  
6 parable action on the part of WTO participants. In  
7 support of this goal, the President shall offer, on a  
8 limited basis, WTO participants that are developing  
9 countries Premium Carbon Market Access Agree-  
10 ments extending to such a WTO participant access  
11 to the carbon market established under subtitle L of  
12 the Internal Revenue Code of 1986. Such agree-  
13 ments may also include additional incentives such as  
14 the ability to choose the base year or maximum level  
15 of allowable greenhouse gas emissions for its emis-  
16 sions trading system, rather than requiring it to  
17 match the system as in effect in the United States.

18 (2) CONDITIONS.—The President shall deter-  
19 mine a global greenhouse gas emissions budget that  
20 protects the climate, and the President shall offer  
21 Premium Carbon Market Access Agreements under  
22 this subsection on a first-come, first-served basis,  
23 only to the extent that they, in total, do not allow  
24 that global budget to be exceeded. An emissions cap  
25 and trading system established in conformance with

1 an agreement entered into under this subsection  
2 shall be considered a comparable action for purposes  
3 of this Act only if it includes a maximum level on  
4 net greenhouse gas emissions into the atmosphere.

5 (c) AGREEMENTS TO UNDERTAKE INTERNATIONAL  
6 FOREST CARBON ACTIVITIES.—

7 (1) IN GENERAL.—In the case of a WTO par-  
8 ticipant that is a developing country and is not yet  
9 ready to enter a comprehensive agreement under  
10 subsection (a) or (b), the President shall attempt to  
11 secure an agreement with such WTO participant  
12 pursuant to which—

13 (A) the WTO participant agrees to under-  
14 take international forest carbon activities, in-  
15 cluding reducing its rate of deforestation, under  
16 the conditions specified in paragraphs (2) and  
17 (3); and

18 (B) such international forest carbon activi-  
19 ties may qualify for international forest allow-  
20 ances that may be traded on the carbon market  
21 established under subtitle L of the Internal  
22 Revenue Code of 1986.

23 (2) QUALITY REQUIREMENTS.—The President  
24 shall establish requirements for international forest  
25 carbon activities that qualify for the creation of

1 international forest allowances under paragraph (1),  
2 including—

3 (A) ensuring that qualifying international  
4 forest carbon activities are designed, carried  
5 out, and managed—

6 (i) in accordance with widely-accepted  
7 environmentally sustainable forestry prac-  
8 tices;

9 (ii) to promote native species and con-  
10 servation and/or restoration of native for-  
11 ests, where practicable and to avoid the in-  
12 troduction of invasive nonnative species;  
13 and

14 (iii) to promote fair compensation,  
15 public participation, and the informed con-  
16 sent of affected local communities and for-  
17 est dependent populations; and

18 (B) ensuring that the emission reductions  
19 or sequestrations are real, permanent, addi-  
20 tional, verifiable, and enforceable, with reliable  
21 measuring and monitoring and appropriate ac-  
22 counting for leakage.

23 (3) ELIGIBILITY CRITERIA.—The President  
24 shall establish eligibility criteria for any WTO par-  
25 ticipant to enter into negotiations for an agreement

1 to undertake international forest carbon activities,  
2 including a requirement that such WTO participant  
3 has—

4 (A) demonstrated the capacity to partici-  
5 pate in international forest carbon activities,  
6 based on sufficient accurate and verifiable data  
7 on changes in national forest carbon stocks;

8 (B) capped greenhouse gas emissions from  
9 deforestation or other land use change or other-  
10 wise established a credible national emission  
11 reference scenario;

12 (C) commenced an emission reduction pro-  
13 gram for the forest sector;

14 (D) achieved national-level reductions of  
15 deforestation and degradation below a credible  
16 reference scenario that are consistent with na-  
17 tionally appropriate mitigation commitments or  
18 actions, taking into account the average annual  
19 deforestation and degradation rates of the  
20 WTO participant during a period of at least 5  
21 consecutive years; and

22 (E) demonstrated those reductions using  
23 remote sensing technology, taking into account  
24 relevant international standards.

1           (4) DEFINITION.—In this subsection, the term  
 2           “international forest carbon activities” means activi-  
 3           ties in developing countries that are conducted at  
 4           the national level and are directed at—

5                   (A) reducing greenhouse gas emissions  
 6                   produced from deforestation and forest deg-  
 7                   radation; and

8                   (B) increasing sequestration of carbon  
 9                   through restoration of forests, restoration of de-  
 10                  graded land that has not been forested prior to  
 11                  restoration, afforestation, using native species  
 12                  where practicable, and improved forest manage-  
 13                  ment.

## 14 **TITLE II—REVENUE PROVISIONS**

### 15 **SEC. 201. ISSUING, AUCTIONING, AND ADMINISTERING** 16 **EMISSIONS ALLOWANCES.**

17           (a) IN GENERAL.—The Internal Revenue Code of  
 18 1986 is amended by adding at the end the following new  
 19 subtitle:

### 20 **“Subtitle L—Auction Based Carbon** 21 **Market**

“CHAPTER 101—EMISSION ALLOWANCES

### 22 **“CHAPTER 101—EMISSION ALLOWANCES**

### 23 **“Subchapter A—Excess Emissions Penalty**

“Sec. 9901. Excess emissions penalty.

1 **“SEC. 9901. EXCESS EMISSIONS PENALTY.**

2       “(a) IMPOSITION OF PENALTY.—The owner or oper-  
3 ator of any covered facility that fails for any year to sub-  
4 mit to the Secretary, by the deadline described in section  
5 9913(a), 1 or more of the emission allowances due pursu-  
6 ant to such section shall be liable for the payment to the  
7 Secretary of an excess emissions penalty on the date of  
8 such failure.

9       “(b) AMOUNT.—The amount of an excess emissions  
10 penalty required to be paid under paragraph (1) shall be  
11 an amount equal to the product obtained by multiplying—

12               “(1) the number of excess emission allowances  
13 that the owner or operator failed to submit; and

14               “(2) the greater of—

15                       “(A) \$200; or

16                       “(B) 3 times the mean market value (as  
17 determined by the Secretary) of an emission al-  
18 lowance during the calendar year for which the  
19 emission allowances were due.

20       “(c) DEFICIENCY PROCEDURES NOT TO APPLY.—  
21 Subchapter B of chapter 63 (relating to deficiency proce-  
22 dure for income, estate, gift, and certain excise taxes) shall  
23 not apply in respect of the assessment or collection of any  
24 penalty imposed by subsection (a).

25       “(d) COORDINATION WITH OTHER PENALTIES.—  
26 The penalty imposed by this section shall be in addition

1 to any other penalty imposed under any other provision  
2 of law.

3 “(e) CONTINUING REQUIREMENT TO SUBMIT AL-  
4 LOWANCES.—The owner or operator of a covered facility  
5 that fails for any year to submit to the Secretary, by the  
6 deadline described in section 9913(a), 1 or more of the  
7 emission allowances due pursuant to that section shall be  
8 liable to compensate for the shortfall with a submission  
9 of excess allowances during the following calendar year (or  
10 such longer period as the Secretary may prescribe).

11 “(f) JOINT AND SEVERAL LIABILITY.—All owners  
12 and operators of a covered facility shall be jointly and sev-  
13 erally liable for the compliance obligation under section  
14 9913 with respect to such facility and for any penalty im-  
15 posed under subsection (a) with respect to any failure to  
16 comply with such obligation.

17 **“Subchapter B—Issuance of Allowances**

“Sec. 9911. Emission allowance account.

“Sec. 9912. Auction.

“Sec. 9913. Compliance obligation.

“Sec. 9914. Use of foreign allowances.

“Sec. 9915. Domestic offsets.

“Sec. 9916. Overall limitation on use of offsets.

“Sec. 9917. Authority to modify limitations.

18 **“SEC. 9911. EMISSION ALLOWANCE ACCOUNT.**

19 “(a) IN GENERAL.—There are hereby established a  
20 separate quantity of emission allowances for each of cal-  
21 endar years 2012 through 2050 as determined in accord-  
22 ance with the following table:

“Calendar Year	Number of Emission Allowances (in Millions)
2012	6,351
2013	6,193
2014	6,035
2015	5,877
2016	5,719
2017	5,561
2018	5,403
2019	5,245
2020	5,087
2021	4,929
2022	4,771
2023	4,613
2024	4,455
2025	4,297
2026	4,139
2027	3,981
2028	3,823
2029	3,666
2030	3,508
2031	3,350
2032	3,192
2033	3,034
2034	2,876
2035	2,718
2036	2,560
2037	2,402
2038	2,244

“Calendar Year	Number of Emission Allowances (in Millions)
2039	2,086
2040	1,928
2041	1,770
2042	1,612
2043	1,454
2044	1,296
2045	1,138
2046	980
2047	822
2048	664
2049	506
2050	348

1       “(b) BORROWING.—If authorized by the Carbon Mar-  
2 ket Efficiency Board, the Secretary may increase the num-  
3 ber of emission allowances established for any year by  
4 making a corresponding reduction in the number of emis-  
5 sion allowance available in one or more subsequent years.  
6 Any increase in the number of allowance established for  
7 any year under this subsection shall not exceed the  
8 amount of the increase authorized by the Carbon Market  
9 Efficiency Board for such year and the corresponding re-  
10 duction with respect to such increase shall be made in ac-  
11 cordance with such authorization but shall in no event be  
12 less than such increase.

1       “(c) SERIAL NUMBERS.—The Secretary shall assign  
2 to each emission allowance established under subsection  
3 (a) a unique serial number that includes the calendar year  
4 for which that emission allowance was established (after  
5 taking into account any borrowing under subsection (b)).

6       “(d) LEGAL STATUS OF EMISSION ALLOWANCES.—

7           “(1) IN GENERAL.—An emission allowance shall  
8 not be a property right.

9           “(2) TERMINATION OR LIMITATION.—Nothing  
10 in this subtitle or any other provision of law limits  
11 the authority of the United States to terminate or  
12 limit an emission allowance.

13           “(3) OTHER PROVISIONS UNAFFECTED.—Noth-  
14 ing in this subtitle relating to emission allowances  
15 shall affect the application of, or compliance with,  
16 any other provision of law to or by a covered facility.

17 **“SEC. 9912. AUCTION.**

18       “(a) IN GENERAL.—Except as otherwise provided in  
19 this subtitle, the Secretary shall conduct auctions of the  
20 allowances established under section 9911 not later than  
21 the close of the calendar year preceding the calendar year  
22 for which such allowance was established.

23       “(b) AUCTIONS NOT LESS FREQUENTLY THAN AN-  
24 NNUALLY.—The Secretary shall conduct at least one auc-  
25 tion under subsection (a) during every 12 month period.

1           “(c) ALLOWANCES AUCTIONED NOT MORE THAN 5  
2 YEARS IN ADVANCE.—The Secretary shall not auction an  
3 allowance established for any calendar year if such cal-  
4 endar year begins more than 5 years after the date of the  
5 auction.

6 **“SEC. 9913. COMPLIANCE OBLIGATION.**

7           “(a) IN GENERAL.—Not later than 90 days after the  
8 end of a calendar year, the owner or operator of a covered  
9 facility shall submit to the Secretary an emission allow-  
10 ance, a foreign allowance, or domestic offset allowance for  
11 each carbon dioxide equivalent attributable to such facility  
12 as calculated by the Administrator of the Environmental  
13 Protection Agency under section 402 of the Climate MAT-  
14 TERS Act of 2008.

15           “(b) RETIREMENT OF ALLOWANCES.—Immediately  
16 upon receipt of an emission allowance under subsection  
17 (a), the Secretary shall retire the allowance.

18           “(c) DETERMINATION OF COMPLIANCE.—Not later  
19 than July 1 of each year, the Secretary shall determine  
20 whether the owners and operators of all covered facilities  
21 are in full compliance with subsection (a) for the preceding  
22 year.

23           “(d) REDUCTIONS IN COMPLIANCE OBLIGATIONS.—  
24 If the Administrator of the Environmental Protection  
25 Agency identifies any additional reductions in carbon diox-

1 ide equivalents by the owner or operator of a covered facil-  
2 ity under section 402 of the Climate MATTERS Act of  
3 2008, the reductions shall reduce the owner or operator’s  
4 compliance obligation under subsection (a).

5 **“SEC. 9914. USE OF FOREIGN ALLOWANCES.**

6       “(a) FOREIGN ALLOWANCES UNDER CAP AND  
7 TRADE PROGRAM.—The owner or operator of a covered  
8 facility may satisfy not more than 15 percent of its compli-  
9 ance obligation under section 9913(a) by submitting for-  
10 eign allowances distributed by a WTO participant pursu-  
11 ant to a commensurate cap and trade program (as defined  
12 in section 111(f)(1)(B) of the Climate MATTERS Act of  
13 2008).

14       “(b) INTERNATIONAL FOREST ALLOWANCES.—The  
15 owner or operator of a covered facility may satisfy not  
16 more than 15 percent of the allowance submission require-  
17 ment of the covered facility under section 9913(a) by sub-  
18 mitting an allowance generated under an agreement to un-  
19 dertake international forest carbon activities entered into  
20 under section 115(c) of the Climate MATTERS Act of  
21 2008.

22       “(c) REGULATIONS.—Not later than 2 years after the  
23 date of enactment of this subtitle, the Secretary shall pro-  
24 mulgate regulations based upon recommendations from  
25 the Administrator of the Environmental Protection Agen-

1 cy, taking into consideration protocols adopted in accord-  
2 ance with the United Nations Framework Convention on  
3 Climate Change, done at New York on May 9, 1992, ap-  
4 proving the use under this subtitle of foreign allowances.

5 “(d) FACILITY CERTIFICATION.—The owner or oper-  
6 ator of a covered facility who submits a foreign allowance  
7 under this subtitle shall certify that the allowance has not  
8 been retired from use in the registry of the applicable for-  
9 eign country.

10 “(e) DEFINITIONS.—Any term used in this section  
11 which is also used in title I of the Climate MATTERS  
12 Act of 2008 shall have the same meaning as when used  
13 in such title.

14 **“SEC. 9915. DOMESTIC OFFSETS.**

15 “(a) IN GENERAL.—In addition to any allowances es-  
16 tablished under section 9911, the Secretary shall establish  
17 domestic offset allowances which, except as otherwise pro-  
18 vided in this section, shall be treated for purposes of this  
19 subtitle in the same manner as emission allowances estab-  
20 lished under section 9911.

21 “(b) ISSUANCE.—The Secretary shall issue domestic  
22 offset allowances corresponding to the reduction in carbon  
23 dioxide equivalents created by offset projects described in  
24 this subsection as determined by the Administrator of the

1 Environmental Protection Agency and reported to the Sec-  
2 retary.

3 “(c) REGULATIONS.—Not later than 18 months after  
4 the date of enactment of this title, the Administrator of  
5 the Environmental Protection Agency, in consultation  
6 with the Secretary of Agriculture, shall promulgate regula-  
7 tions establishing the criteria for offset projects that qual-  
8 ify for domestic offset allowances in accordance with the  
9 requirements of this section.

10 “(d) REQUIREMENTS.—The regulations described in  
11 subsection (a) shall, at minimum—

12 “(1) authorize the issuance of domestic offset  
13 allowances generated through qualifying offset  
14 projects within the United States that achieve green-  
15 house gas emission reductions below, or increases in  
16 biological sequestration above, the project baseline;

17 “(2) ensure that such offset credits represent  
18 real, verifiable, additional, permanent, and enforce-  
19 able reductions in greenhouse gas emissions or in-  
20 creases in biological sequestration;

21 “(3) establish procedures for project initiation  
22 and approval;

23 “(4) establish procedures for third-party  
24 verification of offset allowances; and

1           “(5) provide for the implementation of the re-  
2           quirements of this section.

3           “(e) PERIODIC REVIEW.—Not later than 5 years  
4 after the date of enactment of this section, and periodi-  
5 cally thereafter, the Administrator of the Environmental  
6 Protection Agency shall review and revise, as necessary,  
7 the regulations promulgated under this section.

8           “(f) ELIGIBLE PROJECT TYPES.—

9           “(1) IN GENERAL.—The types of projects eligi-  
10          ble to generate domestic offset allowances under this  
11          subtitle shall be limited to projects that—

12                 “(A) reduce greenhouse gas emissions,  
13                 from agricultural facilities in the United States,  
14                 resulting from enteric fermentation or manure  
15                 management and disposal;

16                 “(B) increase biological sequestration of  
17                 carbon through afforestation or reforestation of  
18                 acreage in the United States that was not for-  
19                 ested as of June 17, 2008;

20                 “(C) reduce fugitive greenhouse gas emis-  
21                 sions from petroleum and natural gas systems  
22                 in the United States;

23                 “(D) reduce greenhouse gas emissions  
24                 from coal mines in the United States; or

1           “(E) reduce greenhouse gas emissions  
2           from the agricultural sector other than those  
3           projects specified in subparagraph (A), provided  
4           any such offset project types are approved  
5           under the National Academy of Sciences review  
6           described in subsection (h).

7           “(2) EXCLUSIONS.—No domestic offset allow-  
8           ances shall be generated under this section by—

9                   “(A) any reduction of greenhouse gas  
10                  emissions that are covered by the compliance  
11                  obligations set forth in section 9913; or

12                   “(B) any activity receiving support under  
13                  part 4 of subtitle B of title II of the Climate  
14                  MATTERS Act of 2008.

15           “(g) LIMITATION ON USE.—The owner or operator  
16           of a covered facility may satisfy not more than 10 percent  
17           if its compliance obligation under section 9913(a) by sub-  
18           mitting domestic offset allowances. Initially, agricultural  
19           offset projects subject to National Academy of Sciences  
20           review under subsection (h) shall be limited to no more  
21           than 4 percent of this compliance obligation. This amount  
22           shall be increased or decreased as a result of the National  
23           Academy of Sciences review, but in no event, shall the  
24           owner or operator of a covered facility be entitled to sat-  
25           isfy greater than 5 percent of its compliance obligation

1 through agricultural offset projects subject to National  
2 Academy of Sciences review.

3 “(h) NATIONAL ACADEMY REVIEW OF AGRICUL-  
4 TURAL PROJECTS.—

5 “(1) IN GENERAL.—The Secretary shall enter  
6 into a contract with the National Academy of  
7 Sciences no later than 6 months after the date of  
8 the enactment of this subsection under which the  
9 Academy shall submit to Congress, the Secretary,  
10 the Secretary of Agriculture, and the Administrator  
11 of the Environmental Protection Agency a report  
12 which includes recommendations as to—

13 “(A) whether certain agricultural projects  
14 would, with a high degree of confidence, result  
15 in real, verifiable, additional, permanent, and  
16 enforceable reductions in greenhouse gas emis-  
17 sions or increases in biological sequestration,

18 “(B) the specific types of such projects  
19 and the specific protocols for ensuring the long-  
20 term environmental integrity of reductions in  
21 greenhouse gas emissions from such projects

22 “(C) whether the limitations on use of ag-  
23 ricultural projects subject to National Academy  
24 of Sciences review should be increased or de-  
25 creased based on the determinations in (A) and

1 (B), in no event to exceed 5 percent of an  
2 owner or operator of a covered facility's total  
3 compliance obligation.

4 “(2) RULEMAKING ON POSITIVE RECOMMENDA-  
5 TIONS.—If the report required under paragraph (1)  
6 finds with a high degree of confidence that certain  
7 agricultural projects would result in real, verifiable,  
8 additional, permanent, and enforceable reductions in  
9 greenhouse gas emissions or increases in biological  
10 sequestration, then the Secretary of Agriculture, in  
11 collaboration with the Administrator of the Environ-  
12 mental Protection Agency, shall promulgate regula-  
13 tions, based on the specific recommendations of the  
14 report, allowing those project types to be eligible to  
15 generate offset credits.

16 **“SEC. 9916. OVERALL LIMITATION ON USE OF OFFSETS.**

17 “The owner or operator of a covered facility may sat-  
18 isfy not more than a total of 25 percent of its compliance  
19 obligation under section 9913(a) by submitting a combina-  
20 tion of foreign allowances under section 9914(a), inter-  
21 national forest allowances under section 9914(b), and do-  
22 mestic offset allowances under section 9915.

23 **“SEC. 9917. AUTHORITY TO MODIFY LIMITATIONS.**

24 “The Secretary may increase or decrease the number  
25 of emission allowance established for each calendar year

1 under section 9911 and the percentages in effect under  
2 section 9914(a) and section 9915(c) only to the extent au-  
3 thorized by the Carbon Market Efficiency Board consist  
4 with the requirements of subchapter D and section  
5 9911(b), or as recommended by the Administrator of the  
6 Environmental Protection Agency pursuant to the Na-  
7 tional Academy of Sciences report consistent with the re-  
8 quirements of subchapter E.

9 **“Subchapter C—Trading**

“Sec. 9921. Allowance transfer system.

“Sec. 9922. No termination of emission allowances.

10 **“SEC. 9921. ALLOWANCE TRANSFER SYSTEM.**

11 “(a) ESTABLISHMENT.—The Secretary shall estab-  
12 lish a system for issuing, recording, and tracking emission  
13 allowances, including the use of foreign allowances and do-  
14 mestic offset allowances.

15 “(b) RECORDING REQUIREMENT.—The transfer of  
16 an emission allowance shall not be effective until such date  
17 as a written certification of the transfer, signed by a re-  
18 sponsible official of each party to the transfer, is received  
19 and recorded by the Secretary. An emission allowance  
20 shall not be taken into account under this subtitle with  
21 respect to any owner or operator of a covered facility un-  
22 less such owner or operator is the recorded holder of such  
23 allowance.



1           “(3) to submit to the President and Congress,  
2           and publish on the Internet, the reports required  
3           under section 9933(c).

4           “(c) MEMBERSHIP.—

5           “(1) COMPOSITION.—The Board shall be com-  
6           posed of 7 members who are citizens of the United  
7           States, to be appointed by the President, by and  
8           with the advice and consent of the Senate.

9           “(2) REQUIREMENTS.—In appointing members  
10          of the Board under paragraph (1), the President  
11          shall—

12                 “(A) ensure fair representation of the fi-  
13                 nancial, agricultural, industrial, and commercial  
14                 sectors, and the geographical regions, of the  
15                 United States, and include a representative of  
16                 consumer interests;

17                 “(B) appoint not more than 1 member  
18                 from each such geographical region;

19                 “(C) ensure that not more than 4 members  
20                 of the Board serving at any time are affiliated  
21                 with the same political party; and

22                 “(D) ensure that at least 1 member is a  
23                 scientist with expertise in climate change and  
24                 the effects of climate change on the environ-  
25                 ment.

1           “(3) COMPENSATION.—

2                   “(A) IN GENERAL.—A member of the  
3 Board shall be compensated at a rate equal to  
4 the daily equivalent of the annual rate of basic  
5 pay prescribed for level II of the Executive  
6 Schedule under section 5313 of title 5, United  
7 States Code, for each day (including travel  
8 time) during which the member is engaged in  
9 the performance of the duties of the Board.

10                   “(B) CHAIRPERSON.—The Chairperson of  
11 the Board shall be compensated at a rate equal  
12 to the daily equivalent of the annual rate of  
13 basic pay prescribed for level I of the Executive  
14 Schedule under section 5312 of title 5, United  
15 States Code, for each day (including travel  
16 time) during which the member is engaged in  
17 the performance of the duties of the Board.

18           “(4) PROHIBITIONS.—

19                   “(A) CONFLICTS OF INTEREST.—An indi-  
20 vidual employed by, or holding any official rela-  
21 tionship (including any shareholder) with, any  
22 entity engaged in the generation, transmission,  
23 distribution, or sale of energy, an individual  
24 who has any pecuniary interest in the genera-  
25 tion, transmission, distribution, or sale of en-

1           ergy, or an individual who has a pecuniary in-  
2           terest in the implementation of Climate MAT-  
3           TERS Act of 2008, shall not be appointed to  
4           the Board under this subsection.

5           “(B) NO OTHER EMPLOYMENT.—A mem-  
6           ber of the Board shall not hold any other em-  
7           ployment during the term of service of the  
8           member.

9           “(d) TERM; VACANCIES.—

10          “(1) TERM.—

11          “(A) IN GENERAL.—The term of a mem-  
12          ber of the Board shall be 14 years, except that  
13          the members first appointed to the Board shall  
14          be appointed for terms in a manner that en-  
15          sures that—

16               “(i) the term of not more than 1  
17               member shall expire during any 2-year pe-  
18               riod; and

19               “(ii) no member serves a term of more  
20               than 14 years.

21          “(B) OATH OF OFFICE.—A member shall  
22          take the oath of office of the Board by not later  
23          than 15 days after the date on which the mem-  
24          ber is appointed under subsection (c)(1).

25          “(C) REMOVAL.—

1           “(i) IN GENERAL.—A member may be  
2 removed from the Board on determination  
3 of the President for cause.

4           “(ii) NOTIFICATION.—Not later than  
5 30 days before removing a member from  
6 the Board for cause under clause (i), the  
7 President shall provide to Congress an ad-  
8 vance notification of the determination by  
9 the President to remove the member.

10       “(2) VACANCIES.—

11           “(A) IN GENERAL.—A vacancy on the  
12 Board—

13           “(i) shall not affect the powers of the  
14 Board; and

15           “(ii) shall be filled in the same man-  
16 ner as the original appointment was made.

17           “(B) SERVICE UNTIL NEW APPOINT-  
18 MENT.—A member of the Board the term of  
19 whom has expired or otherwise been terminated  
20 shall continue to serve until the date on which  
21 a replacement is appointed under subparagraph  
22 (A)(ii), if the President determines that service  
23 to be appropriate.

24       “(e) CHAIRPERSON AND VICE-CHAIRPERSON.—Of  
25 members of the Board, the President shall appoint—

1           “(1) 1 member to serve as Chairperson of the  
2 Board for a term of 4 years; and

3           “(2) 1 member to serve as Vice-Chairperson of  
4 the Board for a term of 4 years.

5           “(f) MEETINGS.—

6           “(1) INITIAL MEETING.—The Board shall hold  
7 the initial meeting of the Board as soon as prac-  
8 ticable after the date on which all members have  
9 been appointed to the Board under subsection  
10 (c)(1).

11           “(2) PRESIDING OFFICER.—A meeting of the  
12 Board shall be presided over by—

13                   “(A) the Chairperson;

14                   “(B) in any case in which the Chairperson  
15 is absent, the Vice-Chairperson; or

16                   “(C) in any case in which the Chairperson  
17 and Vice-Chairperson are absent, a chairperson  
18 pro tempore, to be elected by the members of  
19 the Board.

20           “(3) QUORUM.—Four members of the Board  
21 shall constitute a quorum for a meeting of the  
22 Board.

23           “(4) OPEN MEETINGS.—The Board shall be  
24 subject to section 552b of title 5, United States

1 Code (commonly known as the ‘Government in the  
2 Sunshine Act’).

3 “(g) RECORDS.—The Board shall be subject to sec-  
4 tion 552 of title 5, United States Code (commonly known  
5 as the ‘Freedom of Information Act’).

6 “(h) REVIEW BY GOVERNMENT ACCOUNTABILITY  
7 OFFICE.—Not later than January 1, 2013, and annually  
8 thereafter, the Comptroller General of the United States  
9 shall conduct a review of the efficacy of the Board in ful-  
10 filling the purposes and duties of the Board under this  
11 subchapter.

12 **“SEC. 9932. DUTIES.**

13 “(a) INFORMATION GATHERING.—

14 “(1) AUTHORITY.—The Board shall collect and  
15 analyze relevant market information to promote a  
16 full understanding of the dynamics of the emission  
17 allowance market established under this subtitle.

18 “(2) INFORMATION.—The Board shall gather  
19 such information as the Board determines to be ap-  
20 propriate regarding the status of the market, includ-  
21 ing information relating to—

22 “(A) emission allowance allocation and  
23 availability;

24 “(B) the price of emission allowances;

1           “(C) macro- and micro-economic effects of  
2 unexpected substantial increases and decreases  
3 in emission allowance prices, or shifts in the  
4 emission allowance market, should those in-  
5 creases, decreases, or shifts occur;

6           “(D) economic effect thresholds that could  
7 warrant implementation of cost relief measures  
8 described in section 9933;

9           “(E) in the event any cost relief measures  
10 described in section 9933(a) are taken, the ef-  
11 fects of those measures on the market;

12           “(F) maximum levels of cost relief meas-  
13 ures that are necessary to achieve avoidance of  
14 economic harm and preserve achievement of the  
15 purposes of the Climate MATTERS Act of  
16 2008; and

17           “(G) the success of the market in pro-  
18 moting achievement of the purposes of the Cli-  
19 mate MATTERS Act of 2008.

20           “(b) STUDY.—

21           “(1) IN GENERAL.—During the 2-year period  
22 beginning on the date on which the emission allow-  
23 ance market established under this subtitle begins  
24 operation, the Board shall conduct a study of other

1 markets for tradeable permits to emit covered green-  
2 house gases.

3 “(2) REPORT.—Not later than 180 days after  
4 the beginning of the period described in paragraph  
5 (1), the Board shall submit to Congress, and publish  
6 on the Internet, a report describing the status of the  
7 market, specifically with respect to volatility within  
8 the market and the average price of emission allow-  
9 ances during that 180-day period.

10 “(c) REPORTS.—The Board shall submit to the Sec-  
11 retary and Congress quarterly reports—

12 “(1) describing the status of the emission allow-  
13 ance market established under this subtitle, the eco-  
14 nomic effects of the market, regional, industrial, and  
15 consumer responses to the market, energy invest-  
16 ment responses to the market, the effects on the  
17 market of any fraud on, or manipulation of, the  
18 market that the Board has identified, any corrective  
19 measures that should be carried out to alleviate  
20 identified problems including excessive costs of the  
21 market, and plans to compensate for those meas-  
22 ures;

23 “(2) including a description of—

24 “(A) any cost relief measures authorized  
25 by the Board under section 9933,

1           “(B) the actions taken by the Secretary  
2           pursuant to such authorizations, and

3           “(C) the effect of such actions on the long-  
4           term functioning of the emission allowance mar-  
5           ket taking into account any reductions in allow-  
6           ance established for future years as a result of  
7           such actions, and

8           “(3) that are prepared independently by the  
9           Board, and not in partnership with Federal agen-  
10          cies.

11 **“SEC. 9933. POWERS.**

12          “(a) COST RELIEF MEASURES.—

13           “(1) IN GENERAL.—If the Board determines  
14           that the emission allowance market established  
15           under this subtitle poses a substantial harm to the  
16           economy of the United States, the Board may, in  
17           order to ensure functioning, stable, and efficient  
18           markets for emission allowances, authorize the Sec-  
19           retary to carry out one or more of the following cost  
20           relief measures:

21           “(A) Increase the percentage limitation ap-  
22           plicable under either or both section 9914(a)(1)  
23           or (b) on the foreign allowances that the owner  
24           or operator of any covered facility may use for  
25           any calendar year to satisfy the allowance sub-

1 mission requirement of the covered facility  
2 under section 9913(a).

3 “(B) Increase the percentage limitation ap-  
4 plicable under section 9915(c) on the domestic  
5 offset allowances that the owner or operator of  
6 any covered facility may use for any calendar  
7 year to satisfy the allowance submission re-  
8 quirement of the covered facility under section  
9 9913(a).

10 “(C) Increase the quantity of emission al-  
11 lowances established for any calendar year and  
12 make corresponding reductions in the emission  
13 allowances established for any subsequent cal-  
14 endar years.

15 “(2) GENERAL REQUIREMENTS OF AUTHORIZA-  
16 TION.—On determination by the Board to authorize  
17 a cost relief measure pursuant to paragraph (1), the  
18 Board shall—

19 “(A) authorize the cost relief measure to  
20 be used only during the applicable allocation  
21 year; and

22 “(B) authorize the measure only as needed  
23 to avoid substantial economic harm during the  
24 applicable allocation year.

1           “(3) LIMITATION ON AUTHORIZATION TO IN-  
2           CREASE PERCENTAGE OF PERMISSIBLE ALLOW-  
3           ANCES.—Any authorization under subparagraph (A),  
4           (B), or (C) of paragraph (1) shall specify the max-  
5           imum number of percentage points that the Sec-  
6           retary is authorized to increase the percentage in ef-  
7           fect under section 9914(a)(1) or (b) or 9915(c), re-  
8           spectively.

9           “(4) LIMITATIONS ON AUTHORIZATION TO IN-  
10          CREASE CURRENT YEAR EMISSION ALLOWANCES.—

11           “(A) IN GENERAL.—Any authorization  
12           under paragraph (1)(D) shall specify the max-  
13           imum increase in emission allowances that the  
14           Secretary is authorized to make for the speci-  
15           fied calendar year and the subsequent calendar  
16           years in which the Secretary is authorized to  
17           make corresponding reductions.

18           “(B) MAXIMUM INCREASE.—The max-  
19           imum authorized increase in emission allow-  
20           ances under subparagraph (A) for any calendar  
21           year shall not exceed 5 percent of the quantity  
22           of emission allowances established for such cal-  
23           endar year without regard to such increase.

24           “(C) MAXIMUM TERM FOR REDUCTIONS.—  
25           The corresponding reductions authorized under

1           subparagraph (A) shall not take into account  
2           any calendar years other than the 20 calendar  
3           years immediately following the calendar year of  
4           the authorized increase.

5           “(c) LIMITATIONS.—Nothing in this section gives the  
6 Board the authority—

7           “(1) to consider or prescribe entity-level peti-  
8           tions for relief from the costs of an emission allow-  
9           ance allocation or trading program established under  
10          Federal law;

11          “(2) to carry out any investigative or punitive  
12          process under the jurisdiction of any Federal or  
13          State court; or

14          “(3) to increase the total quantity of emission  
15          allowances issued under this subtitle for the period  
16          of calendar years 2012 through 2050.

17           **“Subchapter E—National Academy of**  
18                           **Sciences Review**

“Sec. 9941. National Academy of Sciences review.

19           **“SEC. 9941. NATIONAL ACADEMY OF SCIENCES REVIEW.**

20           “(a) IN GENERAL.—Not later than 1 year after the  
21          date of enactment of this Act, the Secretary shall offer  
22          to enter into a contract with the National Academy of  
23          Sciences under which the Academy shall, not later than  
24          January 1, 2012, and every 3 years thereafter, submit to

1 Congress, the Carbon Market Efficiency Board, the Sec-  
2 retary, and the Administrator of the Environmental Pro-  
3 tection Agency a report that includes an analysis of—

4 “(1) the latest scientific information and data  
5 relevant to global climate change; and

6 “(2) the performance of Climate MATTERS  
7 Act of 2008 and the amendments made by such Act  
8 and other policies in reducing greenhouse gas emis-  
9 sions and mitigating the adverse impacts of global  
10 climate change.

11 “(b) LATEST SCIENTIFIC INFORMATION.—The anal-  
12 ysis required under subsection (a)(1) shall—

13 “(1) address existing reports, including the  
14 most recent assessment report of the Intergovern-  
15 mental Panel on Climate Change; and

16 “(2) include a description of—

17 “(A) trends in and projections for total  
18 United States greenhouse gas emissions;

19 “(B) trends in and projections for total  
20 worldwide greenhouse gas emissions;

21 “(C) current and projected future atmos-  
22 pheric concentrations of greenhouse gases;

23 “(D) current and projected future global  
24 average temperature, including an analysis of  
25 whether an increase of global average tempera-

1           ture in excess of 3.6 degrees Fahrenheit (2 de-  
2           grees Celsius) above the preindustrial average  
3           has occurred or is more likely than not to occur  
4           in the foreseeable future as a result of anthro-  
5           pogenic climate change;

6           “(E) current and projected future adverse  
7           impacts of global climate change on human  
8           populations, wildlife, and natural resources; and

9           “(F) trends in and projections for the  
10          health of the oceans and ocean ecosystems, in-  
11          cluding predicted changes in ocean acidity, tem-  
12          peratures, the extent of coral reefs, and other  
13          indicators of ocean ecosystem health, resulting  
14          from anthropogenic carbon dioxide and climate  
15          change.

16          “(c) RULEMAKING ON RECOMMENDATIONS.—Based  
17          on the report under subsection (a), the Administrator of  
18          the Environmental Protection Agency shall submit a rec-  
19          ommendation to the Secretary for regulatory action, and  
20          if such regulatory action is within the authority of such  
21          Secretary, the Secretary shall, not later than 2 years after  
22          the submission of such recommendation, finalize a rule-  
23          making (after notice and comment)—

24                  “(1) to carry out such regulatory action; or

25                  “(2) to explain the reasons for declining to act.

1           **“Subchapter F—Industry Transition**  
 2                                   **Assistance**

“Sec. 9951. General allocation and distribution.

“Sec. 9952. Distributing emission allowances to owners and operators of fossil fuel-fired electric power generating facilities.

“Sec. 9953. Distributing emission allowances to owners and operators of energy intensive manufacturing facilities.

3   **“SEC. 9951. GENERAL ALLOCATION AND DISTRIBUTION.**

4           “(a) GENERAL ALLOCATION.—Not later than April  
 5 1, 2011, and annually thereafter through December 31,  
 6 2019, the Secretary shall allocate percentages of the emis-  
 7 sion allowance account established for the following cal-  
 8 endar year as follows:

“Calendar year	Owners and operators of fossil fuel-fired electric power generating facilities	Owners and operators of energy intensive manufacturing facilities
2012 thru 2015 .....	5 percent .....	10 percent
2016 .....	4 percent .....	8 percent
2017 .....	3 percent .....	6 percent
2018 .....	2 percent .....	4 percent
2019 .....	1 percent .....	2 percent

9           “(b) GENERAL DISTRIBUTION.—Not later than 1  
 10 year after the date of enactment of this subtitle, the Sec-  
 11 retary shall establish a system for distributing to entities  
 12 identified under subsection (a) the emission allowances al-  
 13 located under that subsection.

1 **“SEC. 9952. DISTRIBUTING EMISSION ALLOWANCES TO**  
2 **OWNERS AND OPERATORS OF FOSSIL FUEL-**  
3 **FIREED ELECTRIC POWER GENERATING FA-**  
4 **CILITIES.**

5 “(a) IN GENERAL.—As part of the system established  
6 under section 9951(b), the Secretary shall, for each cal-  
7 endar year, distribute to fossil fuel-fired electric power  
8 generating facilities (including such facilities owned or op-  
9 erated by rural electric cooperatives) that were operating  
10 during the calendar year preceding the year in which this  
11 subtitle was enacted the emission allowances represented  
12 by the percentages described in the table contained in sec-  
13 tion 9951(a) for owners and operators of fossil fuel-fired  
14 electric power generating facilities.

15 “(b) CALCULATION OF ALLOWANCES.—The quantity  
16 of emission allowances distributed to a fossil fuel-fired  
17 electric power generating facility under subsection (a)  
18 shall be equal to the product obtained by multiplying—

19 “(1) the quantity of emission allowances avail-  
20 able for distribution under subsection (a); and

21 “(2) the quotient obtained by dividing—

22 “(A) the annual average quantity of car-  
23 bon dioxide equivalents emitted by the facility  
24 during the 3 calendar years preceding the date  
25 of enactment of this subtitle; by

1           “(B) the annual average of the aggregate  
2           quantity of carbon dioxide equivalents emitted  
3           by all fossil fuel-fired electric power generating  
4           facilities during those 3 calendar years.

5 **“SEC. 9953. DISTRIBUTING EMISSION ALLOWANCES TO**  
6           **OWNERS AND OPERATORS OF ENERGY IN-**  
7           **TENSIVE MANUFACTURING FACILITIES.**

8           “(a) DEFINITIONS.—In this section:

9           “(1) CURRENTLY OPERATING FACILITY.—The  
10          term ‘currently operating facility’ means an eligible  
11          manufacturing facility that had significant oper-  
12          ations during the calendar year preceding the cal-  
13          endar year for which emission allowances are being  
14          distributed under this section.

15          “(2) ELIGIBLE MANUFACTURING FACILITY.—

16               “(A) IN GENERAL.—The term ‘eligible  
17               manufacturing facility’ means a manufacturing  
18               facility located in the United States that prin-  
19               cipally manufactures iron, steel, aluminum,  
20               pulp, paper, cement, chemicals, or such other  
21               products as the Secretary, after consultation  
22               with the Administrator of the Environmental  
23               Protection Agency, may determine are likely to  
24               be significantly disadvantaged in competitive  
25               international markets as a result of indirect

1 costs of the program established under this sub-  
2 title.

3 “(B) EXCLUSION.—The term ‘eligible  
4 manufacturing facility’ does not include a facil-  
5 ity eligible to receive emission allowances under  
6 section 9952.

7 “(3) INDIRECT CARBON DIOXIDE EMISSIONS.—  
8 The term ‘indirect carbon dioxide emissions’ means  
9 the product obtained by multiplying (as determined  
10 by the Administrator of the Environmental Protec-  
11 tion Agency)—

12 “(A) the quantity of electricity consump-  
13 tion at an eligible manufacturing facility; and

14 “(B) the rate of carbon dioxide emission  
15 per kilowatt-hour output for the region in which  
16 the manufacturer is located.

17 “(4) NEW ENTRANT MANUFACTURING FACIL-  
18 ITY.—The term ‘new entrant manufacturing facil-  
19 ity’, with respect to a calendar year, means an eligi-  
20 ble manufacturing facility that began operation dur-  
21 ing or after the calendar year for which emission al-  
22 lowances are being distributed under this section.

23 “(b) TOTAL ALLOCATION FOR CURRENTLY OPER-  
24 ATING FACILITIES.—As part of the system established  
25 under section 9951(b), the Secretary shall, for each cal-

1 endar year, distribute 96 percent of the total quantity of  
2 emission allowances available for allocation to energy-in-  
3 tensive manufacturing under section 9951(a) to currently  
4 operating facilities.

5 “(c) TOTAL ALLOCATION FOR CURRENTLY OPER-  
6 ATING FACILITIES IN EACH CATEGORY OF MANUFAC-  
7 TURING FACILITIES.—The quantity of emission allow-  
8 ances distributed by the Secretary for a calendar year to  
9 facilities in each category of currently operating facilities  
10 shall be equal to the product obtained by multiplying—

11 “(1) the total quantity of emission allowances  
12 available for allocation under subsection (b); and

13 “(2) the ratio that (during the calendar year  
14 preceding the calendar year for which emission al-  
15 lowances are being distributed under this section)—

16 “(A) the sum of the direct and indirect  
17 carbon dioxide emissions by currently operating  
18 facilities in the category; bears to

19 “(B) the sum of the direct and indirect  
20 carbon dioxide emissions by all currently oper-  
21 ating facilities.

22 “(d) INDIVIDUAL ALLOCATIONS TO CURRENTLY OP-  
23 ERATING FACILITIES.—The quantity of emission allow-  
24 ances distributed by the Secretary for a calendar year to

1 a currently operating facility shall be a quantity equal to  
2 the product obtained by multiplying—

3 “(1) the total quantity of emission allowances  
4 available for allocation to currently-operating facili-  
5 ties in the appropriate category, as determined  
6 under subsection (c); and

7 “(2) the ratio that (during the 3 calendar years  
8 preceding the year for which the allocation rule is  
9 promulgated for the allocation period)—

10 “(A) the average number of production  
11 employees employed at the facility; bears to

12 “(B) the average number of production  
13 employees employed at all existing eligible man-  
14 ufacturing facilities in the appropriate category.

15 “(e) NEW ENTRANT MANUFACTURING FACILI-  
16 TIES.—

17 “(1) IN GENERAL.—As part of the system es-  
18 tablished under section 9951(b), the Secretary shall,  
19 for each calendar year, distribute 4 percent of the  
20 total quantity of emission allowances available for al-  
21 location to carbon intensive manufacturing under  
22 section 9951(a) to new entrant manufacturing facili-  
23 ties.

24 “(2) INDIVIDUAL ALLOCATIONS.—The quantity  
25 of emission allowances distributed by the Secretary

1 for a calendar year to a new entrant manufacturing  
 2 facility shall be proportional to the product obtained  
 3 by multiplying—

4 “(A) the average number of production  
 5 employees employed at the new entrant manu-  
 6 facturing facility during the prior calendar year;  
 7 and

8 “(B) the rate (in emission allowances per  
 9 production employee) at which emission allow-  
 10 ances were allocated to currently operating fa-  
 11 cilities in the appropriate category for the cal-  
 12 endar year, as determined under subsection (d).

13 **“Subchapter G—Definitions**

“Sec. 9961. Definitions.

14 **“SEC. 9961. DEFINITIONS.**

15 “For purposes of this subtitle—

16 “(1) CARBON DIOXIDE EQUIVALENT.—The  
 17 term ‘carbon dioxide equivalent’ means, for each  
 18 greenhouse gas, the quantity of the greenhouse gas  
 19 that the Administrator of the Environmental Protec-  
 20 tion Agency, determines makes the same contribu-  
 21 tion to global warming as 1 metric ton of carbon di-  
 22 oxide.

23 “(2) COVERED FACILITY.—The term ‘covered  
 24 facility’ means—

1           “(A) any facility that uses more than  
2           5,000 tons of coal in a calendar year;

3           “(B) any facility that is a natural gas  
4           processing plant or that produces natural gas in  
5           the State of Alaska, or any entity that imports  
6           natural gas (including liquefied natural gas);

7           “(C) any facility that in any year produces,  
8           or any entity that in any year imports,  
9           petroleum- or coal-based liquid or gaseous fuel,  
10          the combustion of which will emit a greenhouse  
11          gas, assuming no capture and sequestration of  
12          that gas;

13          “(D) any facility that in any year produces  
14          for sale or distribution, or any entity that in  
15          any year imports, more than 10,000 carbon di-  
16          oxide equivalents of chemicals that are green-  
17          house gas, assuming no capture and destruction  
18          or sequestration of that gas; or

19          “(E) any facility that in any year emits as  
20          a byproduct of the production of  
21          hydrochlorofluorocarbons more than 10,000  
22          carbon dioxide equivalents of  
23          hydrofluorocarbons.

1           “(3) DESTRUCTION.—The term ‘destruction’  
2 means the conversion of a greenhouse gas by ther-  
3 mal, chemical, or other means—

4           “(A) to another gas with a low- or zero-  
5 global warming potential; and

6           “(B) for which credit given reflects the ex-  
7 tent of reduction in global warming potential  
8 actually achieved.

9           “(4) EMISSION ALLOWANCE.—The term ‘emis-  
10 sion allowance’ means an authorization to emit 1  
11 carbon dioxide equivalent.

12           “(5) EMISSION ALLOWANCE ACCOUNT.—The  
13 term ‘Emission Allowance Account’ means the ag-  
14 gregate of emission allowances established under sec-  
15 tion 9911 for the calendar year.

16           “(6) FACILITY.—The term ‘facility’ means—

17           “(A) 1 or more buildings, structures, or in-  
18 stallations located on 1 or more contiguous or  
19 adjacent properties of an entity in the United  
20 States; and

21           “(B) at the option of the Secretary, after  
22 consultation with the Administrator of the En-  
23 vironmental Protection Agency, any activity or  
24 operation that—

1                   “(i) emits 10,000 carbon dioxide  
2                   equivalents in any year; and

3                   “(ii) has a technical connection with  
4                   the activities carried out at a facility, such  
5                   as use of transportation fleets, pipelines,  
6                   transmission lines, and distribution lines,  
7                   but that is not conducted or located on the  
8                   property of the facility.

9                   “(7) GREENHOUSE GAS.—The term ‘greenhouse  
10                  gas’ means any of—

11                   “(A) carbon dioxide;

12                   “(B) methane;

13                   “(C) nitrous oxide;

14                   “(D) sulfur hexafluoride;

15                   “(E) a perfluorocarbon;

16                   “(F) a hydrofluorocarbon; or

17                   “(G) any other anthropogenically-emitted  
18                  gas that is determined by the Administrator of  
19                  the Environmental Protection Agency to con-  
20                  tribute to global warming to a non-negligible  
21                  degree.

22                   “(8) RETIRE AN EMISSION ALLOWANCE.—The  
23                  term ‘retire an emission allowance’ means to dis-  
24                  qualify an emission allowance for any subsequent  
25                  use, regardless of whether the use is a sale, ex-

1 change, or submission of the allowance in satisfying  
2 a compliance obligation.

3 “(9) SEQUESTERED AND SEQUESTRATION.—  
4 The terms ‘sequestered’ and ‘sequestration’ mean  
5 the capture, permanent separation, isolation, or re-  
6 moval of greenhouse gases from the atmosphere, as  
7 determined by the Administrator of the Environ-  
8 mental Protection Agency.”.

9 (b) CLERICAL AMENDMENT.—The table of subtitles  
10 of such Code is amended by adding at the end the fol-  
11 lowing new item:

Subtitle L. Auction Based Carbon Market.

12 **TITLE III—CITIZEN PROTECTION**  
13 **AND DEFICIT REDUCTION**  
14 **TRUST FUNDS**

15 **Subtitle A—Establishment of Trust**  
16 **Funds**

17 **SEC. 301. ESTABLISHMENT OF CITIZEN PROTECTION AND**  
18 **DEFICIT REDUCTION TRUST FUNDS.**

19 (a) IN GENERAL.—Subchapter A of chapter 98 of the  
20 Internal Revenue Code of 1986 is amended by adding at  
21 the end the following new sections:

22 **“SEC. 9511. DEFICIT REDUCTION TRUST FUND.**

23 “(a) CREATION OF TRUST FUND.—There is estab-  
24 lished in the Treasury of the United States a trust fund  
25 to be known as the ‘Deficit Reduction Trust Fund’, con-

1 sisting of such amounts as may be appropriated or cred-  
2 ited to the Deficit Reduction Trust Fund as provided in  
3 this section or section 9602(b).

4 “(b) TRANSFERS TO DEFICIT REDUCTION TRUST  
5 FUND.—There are hereby appropriated to the Deficit Re-  
6 duction Trust Fund amounts equivalent to 15 percent  
7 of—

8 “(1) the amounts received pursuant to auction  
9 of allowances under section 9912, and

10 “(2) the amounts received as penalties under  
11 section 9901.

12 “(c) EXPENDITURES.—Amounts in the Deficit Re-  
13 duction Trust Fund shall be available as provided in ap-  
14 propriation Acts only for the purpose of reducing the Fed-  
15 eral debt.

16 **“SEC. 9512. CITIZEN PROTECTION TRUST FUND.**

17 “(a) CREATION OF TRUST FUND.—There is estab-  
18 lished in the Treasury of the United States a trust fund  
19 to be known as the ‘Citizen Protection Trust Fund’, con-  
20 sisting of such amounts as may be appropriated or cred-  
21 ited to the Citizen Protection Trust Fund as provided in  
22 this section or section 9602(b).

23 “(b) TRANSFERS TO CITIZEN PROTECTION TRUST  
24 FUND.—There are hereby appropriated to the Citizen

1 Protection Trust Fund amounts equivalent to 85 percent  
 2 of—

3 “(1) the amounts received pursuant to auction  
 4 of allowances under section 9912, and

5 “(2) the amounts received as penalties under  
 6 section 9901.

7 “(c) CREATION OF ACCOUNTS.—There is established  
 8 in the Citizen Protection Trust Fund each of the separate  
 9 accounts referred to in the table contained in subsection  
 10 (d)(1). Each such account shall consist of such amounts  
 11 as may be transferred or credited to such account.

12 “(d) TRANSFERS TO ACCOUNTS.—

13 “(1) IN GENERAL.—Any amount appropriated  
 14 or credited to the Citizen Protection Trust Fund  
 15 shall be transferred by the Secretary to the accounts  
 16 in such fund in accordance with the ratio (expressed  
 17 as percentages) contained in the following table:

“In the case of the:	The following percentage of such amount:
Consumer Assistance Account .....	54 percent
Investment in Natural Resource Adaptation Account.	7 percent
Early Action Account .....	1 percent
State and Tribal Action Account .....	2.7 percent
International Adaptation Account .....	3.5 percent
International Technology Assistance Account .....	3.5 percent
Transition Assistance for Workers Account .....	4 percent
Domestic Agriculture and Forestry Account .....	3 percent
Education Account .....	0.4 percent
International Forestry Account .....	4.4 percent
Energy Efficiency Account .....	7.5 percent
Transportation Alternatives Account .....	2 percent
Green Energy Research Account .....	7 percent

1           “(2) PHASEOUT OF TRANSFERS TO EARLY AC-  
 2           TION ACCOUNT.—

3           “(A) IN GENERAL.—In the case of any  
 4           amount appropriated or credited after 2012—

5                   “(i) the percentage specified in the  
 6                   table contained in paragraph (1) with re-  
 7                   spect to the Early Action Account, shall be  
 8                   decreased by the applicable number of per-  
 9                   centage points, and

10                   “(ii) such percentage of such amount  
 11                   shall be transferred to the Consumer As-  
 12                   sistance Account and shall be available,  
 13                   without further appropriation or fiscal year  
 14                   limitation, only for the healthy families  
 15                   fund described in section 313 of the Cli-  
 16                   mate MATTERS Act of 2008.

17           “(B) APPLICABLE NUMBER OF PERCENT-  
 18           AGE POINTS.—With respect to any amount ap-  
 19           propriated or credited in any calendar year, the  
 20           applicable number of percentage points is the  
 21           number determined in accordance with the fol-  
 22           lowing table:

“In the case of calendar year:	The applicable number of percentage points is:
2013 .....	0.33
2014 .....	0.66
2015 and thereafter .....	1

1       “(e) EXPENDITURES FROM CITIZEN PROTECTION  
2 TRUST FUND.—

3           “(1) CONSUMER ASSISTANCE ACCOUNT.—

4       Amounts in the Consumer Assistance Account shall  
5       be available, without further appropriation or fiscal  
6       year limitation, only for carrying out the programs  
7       established under part 1 of subtitle B of title III of  
8       the Climate MATTERS Act of 2008.

9           “(2) INVESTMENT IN NATURAL RESOURCE AD-  
10       APTATION ACCOUNT.—Amounts in the Investment in  
11       Natural Resource Adaptation Account shall be avail-  
12       able, without further appropriation or fiscal year  
13       limitation, only for carrying out the program estab-  
14       lished under part 2 of subtitle B of title III of the  
15       Climate MATTERS Act of 2008.

16           “(3) EARLY ACTION ACCOUNT.—Amounts in  
17       the Early Action Account shall be available, without  
18       further appropriation or fiscal year limitation, only  
19       for carrying out the program established under part  
20       3 of subtitle B of title III of the Climate MATTERS  
21       Act of 2008.

22           “(4) STATE AND TRIBAL ACTION ACCOUNT.—  
23       Amounts in the State and Tribal Action Account  
24       shall be available, without further appropriation or  
25       fiscal year limitation, only for carrying out the pro-

1       gram established under part 4 of subtitle B of title  
2       III of the Climate MATTERS Act of 2008. Funds  
3       received under this section shall supplement existing  
4       programs and not be in place thereof.

5           “(5) INTERNATIONAL ADAPTATION ACCOUNT.—  
6       Amounts in the International Adaptation Account  
7       shall be available, without further appropriation or  
8       fiscal year limitation, only to the Administrator of  
9       USAID to carry out a Climate Change Adaptation  
10      and Response Program for the most vulnerable de-  
11      veloping countries to cope with climate change im-  
12      pacts while encouraging engagement of local commu-  
13      nities.

14          “(6) INTERNATIONAL TECHNOLOGY ASSIST-  
15      ANCE ACCOUNT.—

16           “(A) Amounts in the International Tech-  
17      nology Assistance Account shall be available,  
18      without further appropriation or fiscal year lim-  
19      itation, only to the Secretary of State to provide  
20      technology assistance to qualified developing na-  
21      tions to provide incremental financial support to  
22      accelerate the deployment of low carbon tech-  
23      nologies.

24           “(B) For purposes of this paragraph—

1           “(i) The term ‘low carbon technology’  
2           means technologies to produce energy from  
3           renewable energy, to reduce energy de-  
4           mand through energy efficiency, or to cap-  
5           ture and store carbon emissions from fossil  
6           fuels.

7           “(ii) Qualified developing countries  
8           are those the Secretary of State determines  
9           will take nationally appropriate actions  
10          that will result in significant, verifiable re-  
11          duction of greenhouse gas emissions.

12          “(iii) Incremental financial support  
13          means providing partial funding for de-  
14          ployment of technologies that would not be  
15          deployed within a reasonable time without  
16          the added support.

17          “(7) TRANSITION ASSISTANCE FOR WORKERS  
18          ACCOUNT.—Amounts in the Transition Assistance  
19          for Workers Account shall be available in equal  
20          amounts, without further appropriation or fiscal  
21          year limitation, only—

22                 “(A) to the Secretary of Labor to provide  
23                 transition assistance to dislocated workers and  
24                 communities, including grants to employers,  
25                 employer associations, and representatives of

1 employees, adjustment assistance, employment  
2 services to dislocated workers, income-mainte-  
3 nance and needs-related payments to dislocated  
4 workers, and grants to State and local govern-  
5 ments to assist communities in attracting new  
6 employers or providing essential local govern-  
7 ment services, and

8 “(B) to the Secretary of Labor to supple-  
9 ment existing funding for the Energy Efficiency  
10 and Renewable Energy Worker Training Pro-  
11 gram established under section 171(e) of the  
12 Workforce Investment Act of 1998.

13 “(8) DOMESTIC AGRICULTURE AND FORESTRY  
14 ACCOUNT.—Amounts in the Domestic Agriculture  
15 and Forestry Account shall be available, without fur-  
16 ther appropriation or fiscal year limitation, only for  
17 carrying out the program established under part 5  
18 of subtitle B of title III of the Climate MATTERS  
19 Act of 2008.

20 “(9) INTERNATIONAL FORESTRY ACCOUNT.—  
21 Amounts in the International Forestry Account shall  
22 be available, without further appropriation or fiscal  
23 year limitation, only for carrying out the program  
24 established under part 6 of subtitle B of title III of  
25 the Climate MATTERS Act of 2008.

1           “(10) ENERGY EFFICIENCY ACCOUNT.—  
2           Amounts in the Energy Efficiency Account shall be  
3           available, without further appropriation or fiscal  
4           year limitation, only for carrying out the program  
5           established under part 7 of subtitle B of title III of  
6           the Climate MATTERS Act of 2008.

7           “(11) EDUCATION ACCOUNT.—Amounts in the  
8           Education Account shall be available, without fur-  
9           ther appropriation or fiscal year limitation, only for  
10          environmental education as follows:

11                   “(A) 33.3 percent to the Environmental  
12                   Protection Agency;

13                   “(B) 33.3 percent to the Department of  
14                   Commerce for initiatives under the National  
15                   Oceanic and Atmospheric Administration; and

16                   “(C) 33.3 percent to the Secretary of Edu-  
17                   cation.

18          “(12) TRANSPORTATION ALTERNATIVES AC-  
19          COUNT.—Amounts in the Transportation Alter-  
20          natives Account shall be available, without further  
21          appropriation or fiscal year limitation, only for car-  
22          rying out the program established under part 8 of  
23          subtitle B of title III of the Climate MATTERS Act  
24          of 2008.

1           “(13) GREEN ENERGY RESEARCH ACCOUNT.—  
2           Amounts in the Green Energy Research Account  
3           shall be available, without further appropriation or  
4           fiscal year limitation, only as follows:

5                   “(A) 50 percent for tax credits for basic  
6                   renewable energy technology research.

7                   “(B) 25 percent to the National Science  
8                   Foundation for basic renewable energy tech-  
9                   nology research.

10                   “(C) 25 percent to the Department of En-  
11                   ergy for basic renewable energy technology re-  
12                   search.

13           For purposes of this paragraph, the term ‘basic re-  
14           newable energy technology research’ means any  
15           original investigation conducted in the United States  
16           for the advancement of scientific knowledge in re-  
17           newable energy technology not having a specific  
18           commercial objective.

19           “(14) CARBON MARKET EFFICIENCY BOARD.—  
20           Amounts in the Citizen Protection Trust Fund shall  
21           be available, as provided by appropriation Acts, to  
22           the Carbon Market Efficiency Board to pay the ex-  
23           penses of such Board and salaries of members and  
24           employees of such Board. Any amounts made avail-  
25           able under this paragraph shall be treated for pur-

1 poses of paragraph (1) as amounts not appropriated  
2 or credited to the Citizen Protection Trust Fund.

3 “(f) LIMITATION ON TRANSFERS TO THE CITIZEN  
4 PROTECTION TRUST FUND.—No amount may be appro-  
5 priated to the Citizen Protection Trust Fund on and after  
6 the date of any expenditure from the Citizen Protection  
7 Trust Fund which is not permitted by this section. The  
8 determination of whether an expenditure is so permitted  
9 shall be made without regard to—

10 “(1) any provision of law which is not contained  
11 or referenced in this title or in a revenue Act, and

12 “(2) whether such provision of law is a subse-  
13 quently enacted provision or directly or indirectly  
14 seeks to waive the application of this paragraph.”.

15 (b) CLERICAL AMENDMENT.—The table of sections  
16 for subchapter A of chapter 98 of such Code is amended  
17 by adding at the end the following new items:

“Sec. 9511. Deficit reduction trust fund.

“Sec. 9512. Citizen protection trust fund.”.

18 **Subtitle B—Citizen Protection**  
19 **Programs**

20 **SEC. 310. DEFINITIONS.**

21 Except as otherwise provided in this subtitle, any  
22 term used in this subtitle which is also used in subtitle  
23 L of the Internal Revenue Code of 1986 shall have the  
24 meaning given such term for purposes of such subtitle L.

1                   **PART 1—CONSUMER ASSISTANCE**

2   **SEC. 311. ALLOCATION OF ACCOUNT FUNDS.**

3           The amounts made available annually to carry out  
4 this part shall be allocated as follows:

5           (1) 16 percent to carry out the climate change  
6 rebate program established under section 312,

7           (2) 18 percent for tax relief for low- and mod-  
8 erate-income households to mitigate any increased  
9 costs due to the regulation of greenhouse gases as  
10 provided by this Act (and the amendments made by  
11 this Act), and

12           (3) 66 percent for the health families fund de-  
13 scribed in section 313.

14   **SEC. 312. CLIMATE CHANGE REBATE PROGRAM.**

15           (a) **IN GENERAL.**—The Secretary shall formulate and  
16 administer the Climate Change Rebate Program con-  
17 sistent with the provisions of this section. At the request  
18 of the State agency, eligible low-income households within  
19 the State shall be provided an opportunity to receive com-  
20 pensation, through the issuance of a monthly rebate, for  
21 the loss in purchasing power resulting from this Act.

22           (b) **ELIGIBILITY.**—Participation in the Climate  
23 Change Rebate Program shall be limited to households  
24 that—

25           (1) the State agency determines to be partici-  
26 pating in the Food Stamp Program (7 U.S.C. 2011

1 et seq.) or the Food Distribution Program on Indian  
2 Reservations (7 U.S.C. 2013(b));

3 (2) meet the gross income standard described in  
4 section 5(c)(2) of the Food Stamp Act of 1977 (7  
5 U.S.C. 2014(c)(2)), including households that in-  
6 clude an elderly or disabled member, and the finan-  
7 cial resources limit in effect in the State for such  
8 households under the Food Stamp Act of 1977 (7  
9 U.S.C. 2014(g));

10 (3) consist of a single individual or a married  
11 couple who receive the subsidy described in section  
12 1860D–14 of the Social Security Act (42 U.S.C.  
13 1395w–114); or

14 (4) consist of a single individual or a married  
15 couple who participate in the program under section  
16 XVIII of the Social Security Act and who meet the  
17 income requirements described in section 1860D–  
18 14(a)(1) or (a)(2) and the resource requirements de-  
19 scribed in Section 1860D–14(a)(3)(D) and  
20 (a)(3)(E).

21 (5) LIMITATION.—The Secretary shall establish  
22 procedures to ensure that—

23 (A) individuals in households that qualify  
24 for the rebate under paragraph (2) or para-  
25 graph (4) and that do not participate in the

1 Food Stamp Program or Medicare are U.S. citi-  
2 zens, U.S. nationals, or lawfully residing immi-  
3 grants; and

4 (B) households do not receive more than  
5 one rebate per month.

6 (c) REBATE CALCULATION.—

7 (1) IN GENERAL.—The climate change rebate  
8 amount shall be the average annual reduction in  
9 purchasing power for low-income households of a  
10 given size that results from the regulation of green-  
11 house gas emissions under this Act and any other  
12 provision of law. The Energy Information Adminis-  
13 tration, in consultation with other appropriate fed-  
14 eral agencies, shall calculate the climate change re-  
15 bate amount by August 31 of each year for the fol-  
16 lowing calendar year using the most recent, reliable  
17 data available, and report such amount to the Sec-  
18 retary.

19 (2) REBATE CALCULATION.—

20 (A) DISTRIBUTION.—For each calendar  
21 year, the Energy Information Administration  
22 shall determine and the Secretary shall dis-  
23 tribute amounts available under this section  
24 among U.S. households, based on—

1 (i) households' share of total con-  
2 sumption by all households;

3 (ii) the carbon intensity (and covered-  
4 emissions intensity) of households' con-  
5 sumption; and

6 (iii) the share of households' con-  
7 sumption that is not financed by federal  
8 benefits subject to a cost of living adjust-  
9 ment.

10 (B) CLIMATE CHANGE REBATE.—The cli-  
11 mate change rebate amount shall be equal to  
12 the arithmetic mean value of the amount allo-  
13 cated under paragraph (1) to households of a  
14 specified household size in the bottom income  
15 quintile.

16 (C) INCOME QUINTILES.—Income quintiles  
17 shall be determined by ranking households ac-  
18 cording to income adjusted for household size,  
19 and shall be constructed so that each quintile  
20 contains an equal number of people.

21 (D) HOUSEHOLD SIZE.—The climate  
22 change rebate amount shall be calculated for  
23 each of the household sizes specified in para-  
24 graph (d)(2).

25 (d) MONTHLY REBATE AMOUNT.—

1           (1) MAXIMUM MONTHLY REBATE.—The max-  
2           imum monthly rebate under this subsection for each  
3           household size shall be equal to the annual climate  
4           change rebate amount calculated under subsection  
5           (c) for that household size, divided by 12 and round-  
6           ed to the nearest whole dollar amount.

7           (2) HOUSEHOLD SIZES.—Households shall re-  
8           ceive a rebate based on the number of individuals in  
9           the household, except that households of five or  
10          more members shall receive the same rebate amount  
11          based on calculations under subsection (c) for house-  
12          holds with five or more members.

13          (3) GROSS INCOME.—

14                (A) Eligible households shall receive a  
15                monthly rebate based on the gross income of  
16                the household.

17                (B) A households with a gross income that  
18                is less than or equal to 50 percent of the pov-  
19                erty line shall receive the maximum monthly re-  
20                bate.

21                (C) A household with a gross income that  
22                is greater than 50 percent of the poverty line  
23                and less than or equal to 130 percent of the  
24                poverty line shall receive monthly rebates in  
25                amounts established in accordance with such

1 schedule as shall be determined by the Sec-  
2 retary, provided that—

3 (i) for each household size, the sched-  
4 ule provides that the amount of the month-  
5 ly rebate shall be reduced for each dollar  
6 that gross income of a household exceeds  
7 50 percent of the poverty line (referred to  
8 in this clause as the “phase down rate”);

9 (ii) the phase down rate is equal to  
10 the quotient obtained by dividing—

11 (I) the maximum monthly rebate  
12 amount; by

13 (II) the difference between 130  
14 percent of the poverty line and 50  
15 percent of the poverty line calculated  
16 on a monthly basis for each household  
17 size;

18 (iii) the Secretary establishes a meth-  
19 odology for use in establishing the phase  
20 down rate for households of 5 or more in-  
21 dividuals.

22 (D) A household with a gross income that  
23 is greater than 130 percent of the poverty line  
24 shall not be eligible for a monthly rebate under  
25 this paragraph.

1           (4) SPECIAL RULE FOR CERTAIN HOUSE-  
2           HOLDS.—Notwithstanding paragraph (3), house-  
3           holds with 1 or 2 members that include at least one  
4           elderly or disabled member shall receive the max-  
5           imum monthly rebate for the size of their household.

6           (e) DELIVERY MECHANISM.—

7           (1) Subject to standards and an implementation  
8           schedule set by the Secretary, the state agency shall  
9           provide the rebate in monthly installments via the  
10          State’s Electronic Benefit Transfer System or direct  
11          deposit into the eligible households designated bank  
12          account.

13          (2) Such standards shall include—

14                (A) Defining the required level of recipient  
15                protection regarding privacy, ease of use and  
16                access to the rebate, including the prohibition of  
17                fees charged to recipients for withdrawals; and

18                (B) Operating standards that provide for  
19                interoperability between states and law enforce-  
20                ment monitoring.

21          (f) ADMINISTRATION.—

22          (1) IN GENERAL.—The State agency of each  
23          participating State shall assume responsibility for  
24          the certification of applicant households and for the

1 issuance of rebates and the control and account-  
2 ability thereof.

3 (2) ADMINISTRATIVE COSTS.—

4 (A) Subject to standards established by the  
5 Secretary, the Secretary is authorized to reim-  
6 burse each State agency for a portion, as de-  
7 scribed in (B) and (C) of the administrative  
8 costs involved in each agency's operation of the  
9 Climate Change Rebate Program.

10 (B) For the first three years of the Cli-  
11 mate Change Rebate Program, the State agen-  
12 cy will be reimbursed for:

13 (i) 75 percent of the administrative  
14 costs of determining eligibility for and de-  
15 livering the climate rebate; and

16 (ii) 90 percent of any automated data  
17 processing improvements or Electronic  
18 Benefit Transfer contract amendments  
19 necessary to provide the Climate Change  
20 Rebate.

21 (C) Beginning in the fourth year of this  
22 program, states will be reimbursed for 50 per-  
23 cent of all administrative costs of the rebate.

24 (g) TREATMENT.—The value of the rebate provided  
25 under this Act shall not be considered income or resources

1 for any purpose under any Federal, State, or local laws,  
2 including, but not limited to, laws relating to an income  
3 tax, public assistance programs (such as health care, cash  
4 aid, child care, nutrition programs, and housing assist-  
5 ance) and no participating State or political subdivision  
6 thereof shall decrease any assistance otherwise provided  
7 an individual or individuals because of the receipt of bene-  
8 fits under this Act.

9 (h) DEFINITIONS.—

10 (1) ELDERLY OR DISABLED MEMBER.—The  
11 term “elderly or disabled member” includes individ-  
12 uals who meet the definition of the term in section  
13 3 of the Food Stamp Act (7 U.S.C. 2012) or receive  
14 benefits under Section 1860(D)–14 of the Social Se-  
15 curity Act (42 U.S.C. 1395w–114).

16 (2) ELECTRONIC BENEFIT TRANSFER.—The  
17 term “electronic benefit transfer” means a system  
18 by which household benefits defined under sub-  
19 section (d) are issued from and stored in a central  
20 databank via electronic benefit transfer cards.

21 (3) GROSS INCOME.—The term “gross income”  
22 means the gross income of a household that is deter-  
23 mined in accordance with standards and procedures  
24 established under section 5 of the Food Stamp Act  
25 of 1977 (7 U.S.C. 2014).

1 (4) HOUSEHOLD.—

2 (A) IN GENERAL.—The term “household”  
3 means an individual who lives alone or a group  
4 of individuals who live together.

5 (B) EXCEPTIONS.—Notwithstanding sub-  
6 paragraph (A)—

7 (i) an individual or a group of individ-  
8 uals who are a household under the Food  
9 Stamp Act of 1977 (7 U.S.C. 2012) shall  
10 be considered a household;

11 (ii) a single individual or married cou-  
12 ple that receive benefits under section  
13 1860D–14 of the Social Security Act (42  
14 U.S.C. 1395w–114) shall be considered a  
15 household;

16 (iii) notwithstanding subsection  
17 (b)(5)(b), the Secretary shall establish  
18 rules for providing the Climate Change Re-  
19 bate in an equitable and administratively  
20 simple manner to “mixed households”  
21 where the group of individuals who live to-  
22 gether includes a combination of members  
23 described in clause (i) and clause (ii), or  
24 includes additional members not described  
25 in clause (i) or clause (ii).

1           (5) POVERTY LINE.—The term “poverty line”  
2           has the meaning given the term in section 673(2) of  
3           the Community Services Block Grant Act (42 U.S.C.  
4           9902(2)), including any revision required by that  
5           section.

6           (6) SECRETARY.—The term “Secretary” means  
7           the Secretary of the Treasury, or his designee.

8           (7) STATE.—The term “State” means the fifty  
9           States, the District of Columbia, the Commonwealth  
10          of Puerto Rico, American Samoa, the U.S. Virgin  
11          Islands, Guam, and the Commonwealth of the  
12          Northern Mariana Islands.

13          (8) STATE AGENCY.—The term “State agency”  
14          means an agency of State government, including the  
15          local offices thereof, that has responsibility for ad-  
16          ministration of the 1 or more federally aided public  
17          assistance programs within the State, and in those  
18          States where such assistance programs are operated  
19          on a decentralized basis, the term shall include the  
20          counterpart local agencies administering such pro-  
21          grams.

22 **SEC. 313. HEALTHY FAMILIES FUND.**

23          (a) IN GENERAL.—Amounts made available for the  
24          healthy families fund shall be used only to carry out a  
25          program which is established by subsequent legislation to

1 assist households with the costs of obtaining and main-  
2 taining healthcare coverage and which is consistent with  
3 the principles described in subsection (b).

4 (b) PRINCIPLES OF HEALTHY FAMILIES FUND.—A  
5 program shall be treated as described in this section only  
6 if such program is consistent with the following principles:

7 (1) Advances comprehensive, high quality, af-  
8 fordable healthcare coverage for all.

9 (2) Ensures premiums, deductibles, and out-of-  
10 pocket costs are affordable relative to family income,  
11 with protection from catastrophic medical costs and  
12 bankruptcy.

13 (3) Recognizes the shared responsibility of Fed-  
14 eral and State governments, households, and em-  
15 ployers to contribute toward fair and adequate fi-  
16 nancing of health insurance for all.

17 (4) Promotes stability and equity in healthcare  
18 coverage.

19 (5) Places a high value on effective, evidence-  
20 based care, and reduces over-utilization, duplication,  
21 and waste.

22 **PART 2—INVESTMENT IN NATURAL RESOURCE**  
23 **ADAPTATION**

24 **SEC. 321. DEFINITIONS.**

25 In this part:

1 (1) ECOLOGICAL PROCESS.—

2 (A) IN GENERAL.—The term “ecological  
3 process” means a biological, chemical, or phys-  
4 ical interaction between the biotic and abiotic  
5 components of an ecosystem.

6 (B) INCLUSIONS.—The term “ecological  
7 process” includes—

8 (i) nutrient cycling;

9 (ii) pollination;

10 (iii) predator-prey relationships;

11 (iv) soil formation;

12 (v) gene flow;

13 (vi) larval dispersal and settlement;

14 (vii) hydrological cycling;

15 (viii) decomposition; and

16 (ix) disturbance regimes, such as fire  
17 and flooding.

18 (2) FISH AND WILDLIFE.—The term “fish and  
19 wildlife” means—

20 (A) any species of wild fauna, including  
21 fish and other aquatic species; and

22 (B) any fauna in a captive breeding pro-  
23 gram the object of which is to reintroduce indi-  
24 viduals of a depleted indigenous species into  
25 previously occupied range.

1           (3) HABITAT.—The term “habitat” means the  
2           physical, chemical, and biological properties that are  
3           used by wildlife (including aquatic and terrestrial  
4           plant communities) for growth, reproduction, and  
5           survival, food, water, cover, and space, on a tract of  
6           land, in a body of water, or in an area or region.

7           (4) INDIAN TRIBE.—The term “Indian tribe”  
8           has the meaning given the term in section 4 of the  
9           Indian Self-Determination and Education Assistance  
10          Act (25 U.S.C. 450b).

11          (5) PLANT.—The term “plant” means any spe-  
12          cies of wild flora.

13          (6) STATE.—The term “State” means—

14                 (A) a State;

15                 (B) the District of Columbia;

16                 (C) the Commonwealth of Puerto Rico;

17                 and

18                 (D) any other territory or possession of the

19                 United States.

20   **SEC. 322. ADAPTATION FUND.**

21          (a) AVAILABILITY OF AMOUNTS.—All amounts de-  
22          posited in the Investment in Natural Resource Adaptation  
23          Account established by section 9512 of the Internal Rev-  
24          enue Code of 1986 shall be available to carry out activities  
25          (including research and education activities) that assist

1 fish and wildlife, fish and wildlife habitat, plants, and as-  
2 sociated ecological processes in becoming more resilient,  
3 adapting to, and surviving the impacts of climate change  
4 and ocean acidification (referred to in this section as “ad-  
5 aptation activities”) pursuant to this section.

6 (b) DEPARTMENT OF THE INTERIOR.—Of the  
7 amounts made available annually to carry out this sub-  
8 section—

9 (1) 35 percent shall be allocated to the Sec-  
10 retary of the Interior, and subsequently made avail-  
11 able to States through the Wildlife Conservation and  
12 Restoration Account established under section  
13 3(a)(2) of the Pittman-Robertson Wildlife Restora-  
14 tion Act (16 U.S.C. 669b(a)(2)) to carry out adapta-  
15 tion activities in accordance with comprehensive  
16 State adaptation strategies, as described in sub-  
17 section (j);

18 (2) 19 percent shall be allocated to the Sec-  
19 retary of the Interior for use in funding adaptation  
20 activities carried out—

21 (A) under endangered species, migratory  
22 bird, and other fish and wildlife programs ad-  
23 ministered by the United States Fish and Wild-  
24 life Service;

1 (B) on wildlife refuges and other public  
2 land under the jurisdiction of the United States  
3 Fish and Wildlife Service, the Bureau of Land  
4 Management, or the National Park Service; or

5 (C) within Federal water managed by the  
6 Bureau of Reclamation;

7 (3) 5 percent shall be allocated to the Secretary  
8 of the Interior for adaptation activities carried out  
9 under cooperative grant programs, including—

10 (A) the cooperative endangered species  
11 conservation fund authorized under section 6(i)  
12 of the Endangered Species Act of 1973 (16  
13 U.S.C. 1535(i));

14 (B) programs under the North American  
15 Wetlands Conservation Act (16 U.S.C. 4401 et  
16 seq.);

17 (C) the multinational species conservation  
18 fund established under the heading “MULTI-  
19 NATIONAL SPECIES CONSERVATION FUND” of  
20 title I of the Department of the Interior and  
21 Related Agencies Appropriations Act, 1999 (16  
22 U.S.C. 4246);

23 (D) the Neotropical Migratory Bird Con-  
24 servation Fund established by section 9(a) of

1 the Neotropical Migratory Bird Conservation  
2 Act (16 U.S.C. 6108(a));

3 (E) the Coastal Program of the United  
4 States Fish and Wildlife Service;

5 (F) the National Fish Habitat Action  
6 Plan;

7 (G) the Partners for Fish and Wildlife  
8 Program;

9 (H) the Landowner Incentive Program;

10 (I) the Wildlife Without Borders Program  
11 of the United States Fish and Wildlife Service;

12 and

13 (J) the Park Flight Migratory Bird Pro-  
14 gram of the National Park Service; and

15 (4) 1 percent shall be allocated to the Secretary  
16 of the Interior and subsequently made available to  
17 Indian tribes to carry out adaptation activities  
18 through the tribal wildlife grants program of the  
19 United States Fish and Wildlife Service.

20 (c) LAND AND WATER CONSERVATION FUND.—

21 (1) DEPOSITS.—

22 (A) IN GENERAL.—Of the amounts made  
23 available for each fiscal year to carry out this  
24 subsection, 10 percent shall be deposited into  
25 the Land and Water Conservation Fund estab-

1 lished under section 2 of the Land and Water  
2 Conservation Fund Act of 1965 (16 U.S.C.  
3 4601–5).

4 (B) Deposits to the Land and Water Con-  
5 servation Fund under this subsection shall be  
6 available without further appropriation or fiscal  
7 year limitation and shall be supplemental to au-  
8 thorizations provided under section 3 of the  
9 Land and Water Conservation Fund Act of  
10 1965 (16 U.S.C. 4601–6) which shall remain  
11 available for non-adaptation needs.

12 (2) ALLOCATIONS.—Of the amounts deposited  
13 under this subsection into the Land and Water Con-  
14 servation Fund—

15 (A)  $\frac{1}{6}$  shall be allocated to the Secretary  
16 of the Interior and made available on a com-  
17 petitive basis to carry out adaptation activities  
18 through the acquisition of land and interests in  
19 land under section 6 of the Land and Water  
20 Conservation Fund Act of 1965 (16 U.S.C.  
21 4601–8)—

22 (i) to States in accordance with com-  
23 prehensive wildlife conservation strategies  
24 and Indian tribes;

1 (ii) notwithstanding section 5 of that  
2 Act (16 U.S.C. 4601–7); and

3 (iii) in addition to grants provided  
4 pursuant to—

5 (I) annual appropriations Acts;

6 (II) the Energy Policy Act of  
7 2005 (42 U.S.C. 15801 et seq.); or

8 (III) any other authorization for  
9 nonadaptation needs;

10 (B)  $\frac{1}{3}$  shall be allocated to the Secretary  
11 of the Interior to carry out adaptation activities  
12 through the acquisition of lands and interests in  
13 land under section 7 of the Land and Water  
14 Conservation Fund Act of 1965 (16 U.S.C.  
15 4601–9);

16 (C)  $\frac{1}{6}$  shall be allocated to the Secretary  
17 of Agriculture and made available to the States  
18 to carry out adaptation activities through the  
19 acquisition of land and interests in land under  
20 section 7 of the Forest Legacy Program under  
21 the Cooperative Forestry Assistance Act of  
22 1978 (16 U.S.C. 2103c); and

23 (D)  $\frac{1}{3}$  shall be allocated to the Secretary  
24 of Agriculture to carry out adaptation activities  
25 through the acquisition of land and interests in

1 land under section 7 of the Land and Water  
2 Conservation Fund Act of 1965 (16 U.S.C.  
3 4601–9).

4 (3) EXPENDITURE OF FUNDS.—In allocating  
5 funds under subsection (c), the Secretary of the In-  
6 terior and the Secretary of Agriculture shall take  
7 into consideration factors including—

8 (A) the availability of non-Federal con-  
9 tributions from State, local, or private sources;

10 (B) opportunities to protect wildlife cor-  
11 ridors or otherwise to link or consolidate frag-  
12 mented habitats;

13 (C) opportunities to reduce the risk of cat-  
14 astrophic wildfires, extreme flooding, or other  
15 climate-related events that are harmful to fish  
16 and wildlife and people;

17 (D) the potential for conservation of spe-  
18 cies or habitat types at serious risk due to cli-  
19 mate change, ocean acidification, and other  
20 stressors; and

21 (E) the potential to provide enhanced ac-  
22 cess to land and water for fishing, hunting, and  
23 other public recreational uses.

24 (d) FOREST SERVICE.—Of the amounts made avail-  
25 able annually to carry out this section, 5 percent shall be

1 allocated to the Secretary of Agriculture for use in funding  
2 adaptation activities carried out on national forests and  
3 national grasslands under the jurisdiction of the Forest  
4 Service, or pursuant to the cooperative Wings Across the  
5 Americas Program.

6 (e) ENVIRONMENTAL PROTECTION AGENCY.—Of the  
7 amounts made available annually to carry out this section,  
8 5 percent shall be allocated to the Administrator of the  
9 Environmental Protection Agency for use in adaptation  
10 activities restoring and protecting—

11 (1) large-scale freshwater aquatic ecosystems,  
12 such as the Everglades, the Great Lakes, Flathead  
13 Lake, the Missouri River, the Mississippi River, the  
14 Colorado River, the Sacramento-San Joaquin Rivers,  
15 the Ohio River, the Columbia-Snake River System,  
16 the Apalachicola, Chattahoochee and Flint River  
17 System, the Connecticut River, and the Yellowstone  
18 River;

19 (2) large-scale estuarine ecosystems, such as  
20 Chesapeake Bay, Long Island Sound, Puget Sound,  
21 the Mississippi River Delta, San Francisco Bay  
22 Delta, Narragansett Bay, and Albemarle-Pamlico  
23 Sound; and

24 (3) freshwater and estuarine ecosystems, water-  
25 sheds, and basins identified as priorities by the Ad-

1        administrator of the Environmental Protection Agency,  
2        working in cooperation with other Federal agencies,  
3        States, local governments, scientists, and other con-  
4        servation partners.

5        (f) CORPS OF ENGINEERS.—Of the amounts made  
6        available annually to carry out this section, 10 percent  
7        shall be allocated to the Secretary of the Army for use  
8        by the Corps of Engineers to carry out adaptation activi-  
9        ties restoring—

10            (1) large-scale freshwater aquatic ecosystems,  
11            such as the ecosystems described in subsection  
12            (e)(1);

13            (2) large-scale estuarine ecosystems, such as  
14            the ecosystems described in subsection (e)(2);

15            (3) freshwater and estuarine ecosystems, water-  
16            sheds, and basins identified as priorities by the  
17            Corps of Engineers, working in cooperation with  
18            other Federal agencies, States, local governments,  
19            scientists, and other conservation partners; and

20            (4) habitats or ecosystems under programs such  
21            as the Estuary Restoration Act of 2000 (33 U.S.C.  
22            2901 et seq.), project modifications for improvement  
23            of the environment, and aquatic restoration under  
24            section 206 of the Water Resources Development  
25            Act of 1996 (33 U.S.C. 2330).

1 (g) DEPARTMENT OF COMMERCE.—Of the amounts  
2 made available annually to carry out this section, 10 per-  
3 cent shall be allocated to the Secretary of Commerce for  
4 use in funding adaptation activities to protect, maintain,  
5 and restore coastal, estuarine, and marine resources, habi-  
6 tats, and ecosystems, including such activities carried out  
7 under—

8 (1) the coastal and estuarine land conservation  
9 program;

10 (2) the community-based restoration program;

11 (3) the Coastal Zone Management Act of 1972  
12 (16 U.S.C. 1451 et seq.), subject to the condition  
13 that State coastal agencies shall incorporate, and the  
14 Secretary of Commerce shall approve, coastal zone  
15 management plan elements that are—

16 (A) consistent with the national adaptation  
17 strategy under subsection (i), as part of a  
18 coastal zone management program established  
19 under this Act; and

20 (B) specifically designed to strengthen the  
21 ability of coastal, estuarine, and marine re-  
22 sources, habitats, and ecosystems to adapt to  
23 and withstand the impacts of—

24 (i) global warming; and

1 (ii) where practicable, ocean acidifica-  
2 tion;

3 (4) the Open Rivers Initiative;

4 (5) the Magnuson Fishery Conservation and  
5 Management Act (16 U.S.C. 1801 et seq.);

6 (6) the Marine Mammal Protection Act of 1972  
7 (16 U.S.C. 1361 et seq.);

8 (7) the Endangered Species Act of 1973 (16  
9 U.S.C. 1531 et seq.);

10 (8) the Marine Protection, Research, and Sanc-  
11 tuaries Act of 1972 (33 U.S.C. 1401 et seq.); and

12 (9) the Coral Reef Conservation Act of 2000  
13 (16 U.S.C. 6401 et seq.).

14 (h) COST SHARING.—Notwithstanding any other pro-  
15 vision of law, a State or Indian tribe that receives a grant  
16 under paragraph (1) or (4) of subsection (b) shall provide  
17 10 percent of the costs of each activity carried out using  
18 amounts under the grant.

19 (i) NATIONAL ADAPTATION STRATEGY.—

20 (1) IN GENERAL.—Effective beginning on the  
21 date on which the President establishes the national  
22 strategy under paragraph (3), funds made available  
23 under paragraphs (2), (3), and (4) of subsection (b)  
24 and subsections (c) through (g) shall be used only

1 for adaptation activities that are consistent with the  
2 national strategy.

3 (2) INITIAL PERIOD.—Until the date on which  
4 the President establishes the national strategy under  
5 paragraph (3), funds made available under para-  
6 graphs (2), (3), and (4) of subsection (b) and sub-  
7 sections (c) through (g) shall be used only for adap-  
8 tation activities that are consistent with a workplan  
9 established by the President.

10 (3) NATIONAL STRATEGY.—

11 (A) IN GENERAL.—Not later than 3 years  
12 after the date of enactment of this Act, the  
13 President shall develop and implement a na-  
14 tional strategy for assisting fish and wildlife,  
15 fish and wildlife habitat, plants, and associated  
16 ecological processes in becoming more resilient  
17 and adapting to the impacts of climate change  
18 and ocean acidification.

19 (B) ADMINISTRATION.—In establishing  
20 and revising the national strategy, the Presi-  
21 dent shall—

22 (i) base the national strategy on the  
23 best available science, as identified by the  
24 Science Advisory Board established under  
25 subparagraph (D);

1 (ii) develop the national strategy in  
2 cooperation with State fish and wildlife  
3 agencies, State coastal agencies, United  
4 States territories, and Indian tribes;

5 (iii) coordinate with the Secretary of  
6 the Interior, the Secretary of Commerce,  
7 the Secretary of Agriculture, the Secretary  
8 of Defense, the Administrator of the Envi-  
9 ronmental Protection Agency, and other  
10 agencies as appropriate;

11 (iv) consult with local governments,  
12 conservation organizations, scientists, and  
13 other interested stakeholders; and

14 (v) provide public notice and oppor-  
15 tunity for comment.

16 (C) CONTENTS.—The President shall in-  
17 clude in the national strategy, at a minimum,  
18 prioritized goals and measures and a schedule  
19 for implementation—

20 (i) to identify and monitor fish and  
21 wildlife, fish and wildlife habitat, plants,  
22 and associated ecological processes that are  
23 particularly likely to be adversely affected  
24 by climate change and ocean acidification

1 and have the greatest need for conserva-  
2 tion;

3 (ii) to identify and monitor coastal,  
4 estuarine, marine, terrestrial, and fresh-  
5 water habitats that are at the greatest risk  
6 of being damaged by climate change and  
7 ocean acidification;

8 (iii) to assist species in adapting to  
9 the impacts of climate change and ocean  
10 acidification;

11 (iv) to protect, acquire, maintain, and  
12 restore fish and wildlife habitat to build re-  
13 siliance to climate change and ocean acidi-  
14 fication;

15 (v) to provide habitat linkages and  
16 corridors to facilitate fish, wildlife, and  
17 plant movement in response to climate  
18 change and ocean acidification;

19 (vi) to restore and protect ecological  
20 processes that sustain fish, wildlife, and  
21 plant populations that are vulnerable to cli-  
22 mate change and ocean acidification;

23 (vii) to protect, maintain, and restore  
24 coastal, marine, and aquatic ecosystems so  
25 that the ecosystems are more resilient and

1 better able to withstand the additional  
2 stresses associated with climate change, in-  
3 cluding relative sea level rise and ocean  
4 acidification;

5 (viii) to protect ocean and coastal spe-  
6 cies from the impact of climate change and  
7 ocean acidification;

8 (ix) to incorporate adaptation strate-  
9 gies and activities to address relative sea  
10 level rise in coastal zone planning;

11 (x) to protect, maintain, and restore  
12 ocean and coastal habitats to build healthy  
13 and resilient ecosystems, including the pur-  
14 chase of coastal and island land; and

15 (xi) to incorporate consideration of cli-  
16 mate change and ocean acidification, and  
17 to integrate adaptation strategies and ac-  
18 tivities for fish and wildlife, fish and wild-  
19 life habitat, plants, and associated ecologi-  
20 cal processes, in the planning and manage-  
21 ment of Federal land and water adminis-  
22 tered by the Federal agencies that receive  
23 funding under this section.

24 (D) SCIENCE ADVISORY BOARD.—

1 (i) ESTABLISHMENT.—Not later than  
2 180 days after the date of enactment of  
3 this Act, the Secretary of the Interior shall  
4 establish and appoint the members of a  
5 science advisory board, to be comprised of  
6 not fewer than 10 and not more than 20  
7 members, who shall—

8 (I) be recommended by the Presi-  
9 dent of the National Academy of  
10 Sciences;

11 (II) have expertise in fish, wild-  
12 life, plant, aquatic, and coastal and  
13 marine biology, ecology, climate  
14 change, ocean acidification, and other  
15 relevant scientific disciplines; and

16 (III) represent a balanced mem-  
17 bership between Federal, State, and  
18 local representatives, universities, and  
19 conservation organizations.

20 (ii) DUTIES.—The science advisory  
21 board shall—

22 (I) advise the President and rel-  
23 evant Federal agencies and depart-  
24 ments on—

1           (aa) the best available  
2 science regarding the impacts of  
3 climate change and ocean acidifi-  
4 cation on fish and wildlife, habi-  
5 tat, plants, and associated eco-  
6 logical processes; and

7           (bb) scientific strategies and  
8 mechanisms for adaptation; and

9           (II) identify and recommend pri-  
10 orities for ongoing research needs on  
11 those issues.

12           (iii) COLLABORATION.—The science  
13 advisory board shall collaborate with other  
14 climate change and ecosystem research en-  
15 tities in other Federal agencies and depart-  
16 ments.

17           (iv) AVAILABILITY TO PUBLIC.—The  
18 advice and recommendations of the science  
19 advisory board shall be made available to  
20 the public.

21           (v) NONAPPLICABILITY OF FACA.—  
22 The Federal Advisory Committee Act (5  
23 U.S.C. App.) shall not apply to the science  
24 advisory board.

1 (E) COORDINATION WITH OTHER PLANS.—

2 In developing the national strategy, the Presi-  
3 dent shall, to the maximum extent prac-  
4 ticable—

5 (i) take into consideration research  
6 and information contained in—

7 (I) State comprehensive wildlife  
8 conservation plans;

9 (II) the North American water-  
10 fowl management plan;

11 (III) the national fish habitat ac-  
12 tion plan;

13 (IV) coastal zone management  
14 plans;

15 (V) the reports of the Pew  
16 Oceans Commission and the United  
17 States Commission on Ocean Policy;  
18 and

19 (VI) other relevant plans; and

20 (ii) coordinate and integrate the goals  
21 and measures identified in the national  
22 strategy with the goals and measures iden-  
23 tified in those plans.

24 (F) REVISIONS.—Not later than 5 years  
25 after the date on which the strategy is devel-

1           oped, and not less frequently than every 5 years  
2           thereafter, the President shall review and up-  
3           date the national strategy using the procedures  
4           described in this paragraph.

5           (j) STATE COMPREHENSIVE ADAPTATION STRATE-  
6 GIES.—

7           (1) IN GENERAL.—Except as provided in para-  
8           graph (2), funds made available to States under this  
9           part shall be used only for activities that are con-  
10          sistent with a State strategy that has been approved  
11          by—

12                   (A) the Secretary of the Interior; and

13                   (B) for any State with a coastal zone  
14                   (within the meaning of the Coastal Zone Man-  
15                   agement Act (16 U.S.C. 1451 et seq.)), by the  
16                   Secretary of Commerce, subject to the condition  
17                   that approval by the Secretary of Commerce  
18                   shall be required only for those portions of the  
19                   strategy relating to activities affecting the  
20                   coastal zone.

21          (2) INITIAL PERIOD.—

22                   (A) IN GENERAL.—Until the earlier of the  
23                   date that is 3 years after the date of enactment  
24                   of this Act or the date on which a State re-  
25                   ceives approval for the State strategy, a State

1 shall be eligible to receive funding under sub-  
2 section (b)(1) for adaptation activities that  
3 are—

4 (i) consistent with the comprehensive  
5 wildlife strategy of the State and, where  
6 appropriate, other fish, wildlife and con-  
7 servation strategies; and

8 (ii) in accordance with a workplan de-  
9 veloped in coordination with—

10 (I) the Secretary of the Interior;

11 and

12 (II) for any State with a coastal  
13 zone (within the meaning of the  
14 Coastal Zone Management Act (16  
15 U.S.C. 1451 et seq.)), by the Sec-  
16 retary of Commerce, subject to the  
17 condition that coordination with the  
18 Secretary of Commerce shall be re-  
19 quired only for those portions of the  
20 strategy relating to activities affecting  
21 the coastal zone.

22 (B) PENDING APPROVAL.—During the pe-  
23 riod for which approval by the applicable Sec-  
24 retary of a State strategy described in para-  
25 graph (3) is pending, the State may continue

1 receiving funds under subsection (b)(1) pursu-  
2 ant to the workplan described subparagraph  
3 (A)(ii).

4 (3) REQUIREMENTS.—A State strategy shall—

5 (A) describe the impacts of climate change  
6 and ocean acidification on the diversity and  
7 health of the fish, wildlife and plant popu-  
8 lations, habitats, and associated ecological proc-  
9 esses;

10 (B) describe and prioritize proposed con-  
11 servation actions to assist fish, wildlife, and  
12 plant populations in adapting to those impacts;

13 (C) establish programs for monitoring the  
14 impacts of climate change on fish, wildlife, and  
15 plant populations, habitats, and associated eco-  
16 logical processes;

17 (D) include strategies, specific conservation  
18 actions, and a timeframe for implementing con-  
19 servation actions for fish, wildlife, and plant  
20 populations, habitats, and associated ecological  
21 processes;

22 (E) establish methods for assessing the ef-  
23 fectiveness of conservation actions taken to as-  
24 sist fish, wildlife, and plant populations, habi-  
25 tats, and associated ecological processes in

1           adapting to those impacts and for updating  
2           those actions to respond appropriately to new  
3           information or changing conditions;

4           (F) be developed—

5           (i) with the participation of the State  
6           fish and wildlife agency, the State agency  
7           responsible for administration of Land and  
8           Water Conservation Fund grants, the  
9           State Forest Legacy program coordinator,  
10          and the State coastal agency; and

11          (ii) in coordination with the Secretary  
12          of the Interior and, where applicable, the  
13          Secretary of Commerce;

14          (G) provide for solicitation and consider-  
15          ation of public and independent scientific input;

16          (H) take into consideration research and  
17          information contained in, and coordinate with  
18          and integrate the goals and measures identified  
19          in, as appropriate, other fish, wildlife, and habi-  
20          tat conservation strategies, including—

21           (i) the national fish habitat action  
22           plan;

23           (ii) plans under the North American  
24           Wetlands Conservation Act (16 U.S.C.  
25           4401 et seq.);

- 1 (iii) the Federal, State, and local part-  
2 nership known as “Partners in Flight”;
- 3 (iv) federally approved coastal zone  
4 management plans under the Coastal Zone  
5 Management Act of 1972 (16 U.S.C. 1451  
6 et seq.);
- 7 (v) federally approved regional fishery  
8 management plans and habitat conserva-  
9 tion activities under the Magnuson Fishery  
10 Conservation and Management Act (16  
11 U.S.C. 1801 et seq.);
- 12 (vi) the national coral reef action  
13 plan;
- 14 (vii) recovery plans for threatened  
15 species and endangered species under sec-  
16 tion 4(f) of the Endangered Species Act of  
17 1973 (16 U.S.C. 1533(f));
- 18 (viii) habitat conservation plans under  
19 section 10 of that Act (16 U.S.C. 1539);
- 20 (ix) other Federal and State plans for  
21 imperiled species;
- 22 (x) the United States shorebird con-  
23 servation plan;
- 24 (xi) the North American waterbird  
25 conservation plan; and

1 (xii) other State-based strategies that  
2 comprehensively implement adaptation ac-  
3 tivities to remediate the effects of climate  
4 change and ocean acidification on fish,  
5 wildlife, and habitats; and

6 (I) be incorporated into a revision of the  
7 comprehensive wildlife conservation strategy of  
8 a State—

9 (i) that has been submitted to the  
10 United States Fish and Wildlife Service;  
11 and

12 (ii)(I) that has been approved by the  
13 Service; or

14 (II) on which a decision on approval is  
15 pending.

16 (4) UPDATING.—Each State strategy described  
17 in paragraph (3) shall be updated at least every 5  
18 years.

### 19 **PART 3—EARLY ACTION**

#### 20 **SEC. 331. EARLY ACTION.**

21 (a) IN GENERAL.—Annually, the Secretary of the  
22 Treasury shall distribute the balance of the Early Action  
23 Account established under section 9512 to owners or oper-  
24 ators of covered facilities and other facilities that emit  
25 greenhouse gas in accordance with the procedures and

1 standards in subsection (b), in recognition of actions of  
2 the owners and operators taken since January 1, 1994,  
3 that resulted in verified and credible reductions of green-  
4 house gas emissions.

5 (b) REGULATIONS.—(b) Not later than 1 year after  
6 the date of enactment of this Act, the Administrator of  
7 the Environmental Protection Agency shall establish by  
8 regulation, procedures and standards for use in distrib-  
9 uting to owners and operators of covered facilities and  
10 other facilities that emit greenhouse gas, amounts in the  
11 Early Action Account.

12 (c) PROCEDURES AND STANDARDS.—The procedures  
13 and standards established under subsection (b) shall pro-  
14 vide for consideration of verified and credible emission re-  
15 ductions registered before the date of enactment of this  
16 Act under—

17 (1) the Climate Leaders Program, or any other  
18 voluntary greenhouse gas reduction program of the  
19 United States Environmental Protection Agency and  
20 the United States Department of Energy;

21 (2) the Voluntary Reporting of Greenhouse  
22 Gases Program of the Energy Information Adminis-  
23 tration;

24 (3) State or regional greenhouse gas emission  
25 reduction programs that include systems for track-

1 ing and verifying the greenhouse gas emission reduc-  
2 tions; and

3 (4) voluntary entity programs that resulted in  
4 entity-wide reductions (including offsetting load  
5 growth) in greenhouse gas emissions.

6 (d) ELIGIBLE ACTIONS.—Activities for which early  
7 action credit may be awarded may include, but are not  
8 limited to—

9 (1) avoided greenhouse gas emissions from pro-  
10 grams that reduce load growth, including: —

11 (A) energy efficiency;

12 (B) demand side management; and

13 (C) zero-emissions energy resources, in-  
14 cluding renewable energy, and

15 (2) purchases of voluntary carbon offsets that  
16 result in measurable, verifiable, additional, and en-  
17 forceable greenhouse gas reductions (or increase in  
18 sequestered greenhouse gas emissions) that are third  
19 party certified and verified according to the third  
20 party standard and registered with a tracking sys-  
21 tem for certified offsets.

## 22 **PART 4—STATE AND TRIBAL ACTION**

### 23 **SEC. 341. ALLOCATION FOR ENERGY SAVINGS.**

24 (a) ALLOCATION FOR BUILDING EFFICIENCY.—Not  
25 later than January 1, 2012, and annually thereafter

1 through January 1, 2050, the Secretary of the Treasury  
2 shall allocate 6 percent of the balance of the State and  
3 Tribal Action Account among States that are in compli-  
4 ance with section 304(c) of the Energy Conservation and  
5 Production Act .

6 (b) DISTRIBUTION.—Not later than 2 years after the  
7 date of enactment of this Act, the Secretary of the Treas-  
8 ury shall establish procedures and standards for the dis-  
9 tribution of amounts to States in accordance with sub-  
10 sections (a) and (b).

11 **SEC. 342. ALLOCATION FOR STATES WITH PROGRAMS THAT**  
12 **EXCEED FEDERAL EMISSION REDUCTION**  
13 **TARGETS.**

14 (a) ALLOCATION.—Not later than April 1, 2011, and  
15 annually thereafter through calendar year 2049, the Sec-  
16 retary of the Treasury shall allocate 25 percent of the bal-  
17 ance of the State and Tribal Action Account for the fol-  
18 lowing calendar year among States that have—

19 (1) before the date of enactment of this Act, en-  
20 acted statewide greenhouse gas emission reduction  
21 targets that are more stringent than the nationwide  
22 targets established under section 9911 of the Inter-  
23 nal Revenue Code of 1986; and

24 (2) by the time of an allocation under this sub-  
25 section, imposed on covered facilities within the

1 States aggregate greenhouse gas emission limitations  
2 more stringent than those imposed on covered facili-  
3 ties under section 9911 of the Internal Revenue  
4 Code of 1986.

5 (b) DISTRIBUTION.—Not later than 2 years after the  
6 date of enactment of this Act, the Secretary of the Treas-  
7 ury shall establish procedures and standards for use in  
8 distributing funds among States in accordance with sub-  
9 section (a).

10 (c) USE.—Any State receiving funds under this sec-  
11 tion for a calendar year shall use not less than 90 percent  
12 of such funds in 1 or more of the ways described in section  
13 343(c)(1).

14 **SEC. 343. GENERAL ALLOCATION.**

15 (a) ALLOCATION.—Subject to subsection (d)(3), not  
16 later than April 1, 2011, and annually thereafter through  
17 calendar year 2049, the Secretary of the Treasury shall  
18 allocate 62 percent of the balance of the State and Tribal  
19 Action Account for the following calendar year among  
20 States.

21 (b) DISTRIBUTION.—The allowances available for al-  
22 location to States under subsection (a) for a calendar year  
23 shall be distributed as follows:

24 (1) For each calendar year,  $\frac{1}{2}$  of the amount  
25 available for allocation to States under subsection

1 (a) shall be distributed among individual States  
2 based on the proportion that—

3 (A) the expenditures of a State for the  
4 low-income home energy assistance program es-  
5 tablished under the Low-Income Home Energy  
6 Assistance Act of 1981 (42 U.S.C. 8621 et  
7 seq.) for the preceding calendar year; bears to

8 (B) the expenditures of all States for that  
9 program for the preceding calendar year.

10 (2) For each calendar year,  $\frac{1}{2}$  of the amount  
11 available for allocation to States under subsection  
12 (a) shall be distributed among the States based on  
13 the proportion that—

14 (A) the population of a State, as deter-  
15 mined by the most recent decennial census pre-  
16 ceeding the calendar year for which the alloca-  
17 tion regulations are for the allocation year;  
18 bears to

19 (B) the population of all States, as deter-  
20 mined by that census.

21 (c) USE.—

22 (1) IN GENERAL.—During any calendar year, a  
23 State shall use in 1 or more of the following ways  
24 not less than 90 percent of the amount allocated to  
25 the State under this section for that calendar year:

1           (A) To address local or regional impacts of  
2 climate change, including by accommodating,  
3 protecting, or relocating affected communities  
4 and public infrastructure.

5           (B) To collect, evaluate, disseminate, and  
6 use information necessary for affected coastal  
7 communities to adapt to climate change (such  
8 as information derived from inundation pre-  
9 diction systems).

10          (C) To address local or regional impacts of  
11 climate change policy, including providing as-  
12 sistance to displaced workers.

13          (D) To mitigate impacts on energy-inten-  
14 sive industries in internationally competitive  
15 markets.

16          (2) USE FOR RECYCLING.—During any cal-  
17 endar year, a State shall use not less than 5 percent  
18 of the amounts allocated to the State under this sec-  
19 tion for increasing recycling rates through activities  
20 such as—

21           (A) improving recycling infrastructure;

22           (B) increasing public education on the ben-  
23 efits of recycling, particularly with respect to  
24 greenhouse gases;

- 1 (C) improving residential, commercial, and  
2 industrial collection of recyclables;  
3 (D) improving recycling system efficiency;  
4 (E) increasing recycling yields; and  
5 (F) improving the quality and usefulness  
6 of recycled materials.

7 (3) OFFSET OF INCREASED ENERGY COSTS.—  
8 Any amount allocated to a State under this section  
9 which is not used for a purpose described in para-  
10 graph (1) shall be used to offset the increased en-  
11 ergy costs incurred by the State in the performance  
12 of governmental functions.

13 (d) PROGRAM FOR TRIBAL COMMUNITIES.—

14 (1) ESTABLISHMENT.—Not later than 3 years  
15 after the date of enactment of this Act, the Sec-  
16 retary of the Interior shall by regulation establish a  
17 program for Indian tribes that is designed to deliver  
18 assistance to Indian tribes within the United States  
19 that face disruption or dislocation as a result of  
20 global climate change, utilizing the rulemaking proc-  
21 ess identified under the Negotiated Rulemaking Act  
22 (5 U.S.C. 657 et seq.).

23 (2) ALLOCATION.—Beginning in the first cal-  
24 endar year that begins after promulgation of the  
25 regulations referred to in paragraph (1), and annu-

1 ally thereafter until calendar year 2050, the Sec-  
2 retary of the Treasury shall allocate 7 percent of the  
3 balance of the State and Tribal Action Account for  
4 each calendar year to the program established under  
5 paragraph (1).

6 **PART 5—DOMESTIC AGRICULTURE AND**  
7 **FORESTRY**

8 **SEC. 351. ALLOCATION.**

9 The Secretary of Agriculture shall carry out a pro-  
10 gram to—

11 (1) achieve real, verifiable, additional, perma-  
12 nent, and enforceable reductions in greenhouse gas  
13 emissions from the agriculture and forestry sectors  
14 of the United States economy; and

15 (2) achieve real, verifiable, additional, perma-  
16 nent, and enforceable increases in greenhouse gas  
17 sequestration from those sectors.

18 **SEC. 352. AGRICULTURAL AND FORESTRY GREENHOUSE**  
19 **GAS MANAGEMENT RESEARCH.**

20 (a) REPORT.—Not later than 1 year after the date  
21 of enactment of this Act, the Secretary of Agriculture, in  
22 consultation with scientific and agricultural and forestry  
23 experts, shall prepare and submit to Congress a report  
24 that describes the status of research on agricultural and

1 forestry greenhouse gas management, including a descrip-  
2 tion of—

3 (1) research on soil carbon sequestration and  
4 other agricultural and forestry greenhouse gas man-  
5 agement that has been carried out;

6 (2) any additional research that is necessary;

7 (3) the proposed priority for additional re-  
8 search;

9 (4) the most appropriate approaches for con-  
10 ducting the additional research; and

11 (5) the extent to which and the manner in  
12 which carbon credits that are specific to agricultural  
13 and forestry operations, including harvested wood  
14 products and the reduction of hazardous fuels to re-  
15 duce the risk of uncharacteristically severe wildfires,  
16 should be valued and allotted.

17 (b) STANDARDIZED SYSTEM OF SOIL CARBON MEAS-  
18 UREMENT AND CERTIFICATION FOR THE AGRICULTURAL  
19 AND FORESTRY SECTORS.—

20 (1) IN GENERAL.—As soon as practicable after  
21 the date of enactment of this Act, the Secretary of  
22 Agriculture shall establish a standardized system of  
23 carbon measurement and certification for the agri-  
24 cultural and forestry sectors.

1           (2) ADMINISTRATION.—In establishing the sys-  
2           tem, the Secretary of Agriculture shall—

3                   (A) create a standardized system of meas-  
4                   urements for agricultural and forestry green-  
5                   house gases; and

6                   (B) delineate the most appropriate system  
7                   of certification of credit by public or private en-  
8                   tities.

9           (c) RESEARCH.—After the date of submission of the  
10          report described in paragraph (1), the President and the  
11          Secretary of Agriculture (in collaboration with the member  
12          institutions of higher education of the Consortium for Ag-  
13          ricultural Soil Mitigation of Greenhouse Gases, institu-  
14          tions of higher education, and research entities) shall ini-  
15          tiate a program to conduct any additional research that  
16          is necessary.

17          **SEC. 353. DISTRIBUTION.**

18           (a) IN GENERAL.—Taking into account the report  
19          prepared under section 352(a), the Secretary of Agri-  
20          culture shall establish, by regulation, a program under  
21          which amounts from the Domestic Agriculture and For-  
22          estry Account established under section 9941 of the Inter-  
23          nal Revenue Code of 1986 may be distributed to entities  
24          that carry out projects on agricultural and forest land that

1 achieve real, verifiable, additional, permanent, and en-  
2 forceable greenhouse gas emission mitigation benefits.

3 (b) NITROUS OXIDE AND METHANE.—The Secretary  
4 of Agriculture shall ensure that, during any 5-year period,  
5 the average annual percentage of amounts distributed to  
6 entities under the program established under subsection  
7 (a) specifically for achieving real, verifiable, additional,  
8 permanent, and enforceable reductions in nitrous oxide  
9 emissions through soil management or achieving real,  
10 verifiable, additional, permanent, and enforceable reduc-  
11 tions in methane emissions through enteric fermentation  
12 and manure management shall be 0.5 percent.

13 (c) REQUIREMENT.—The Secretary of Agriculture  
14 shall make distributions under this section in a manner  
15 that maximizes the avoidance or reduction of greenhouse  
16 gas emissions.

17 **PART 6—INTERNATIONAL FORESTRY**

18 **SEC. 361. FINDINGS.**

19 Congress finds that—

20 (1) land-use change and forest sector emissions  
21 account for approximately 20 percent of global  
22 greenhouse gas emissions;

23 (2) land conversion and deforestation are 2 of  
24 the largest sources of greenhouse gas emissions in  
25 the developing world, amounting to roughly 40 per-

1 cent of the total greenhouse gas emissions of the de-  
2 veloping world;

3 (3) with sufficient data, deforestation rates and  
4 forest carbon stocks can be measured with an ac-  
5 ceptable level of uncertainty;

6 (4) some countries are or will soon be ready to  
7 make national-level commitments to reduce deforest-  
8 ation and forest degradation and to engage in activi-  
9 ties to achieve measurable results, while other coun-  
10 tries will benefit from capacity building programs for  
11 a few years in order to establish the necessary do-  
12 mestic institutions and laws to achieve reductions;  
13 and

14 (5) encouraging reduced deforestation and  
15 other forest carbon activities in other countries  
16 can—

17 (A) provide critical leverage to encourage  
18 voluntary developing country participation in  
19 emission limitation regimes;

20 (B) facilitate greater overall reductions in  
21 greenhouse gas emissions than would otherwise  
22 be practicable; and

23 (C) substantially benefit biodiversity, con-  
24 servation and indigenous and other forest-de-  
25 pendent people in developing countries.

1 **SEC. 362. DEFINITION OF DEFORESTATION REDUCTION AC-**  
2 **TIVITIES.**

3 In this part, the term “deforestation reduction activi-  
4 ties” means—

5 (1) activities directed at reducing greenhouse  
6 gas emissions from deforestation and forest degrada-  
7 tion in countries other than the United States; and

8 (2) activities directed at increasing sequestra-  
9 tion of carbon through restoration of forests, and de-  
10 graded land in countries other than the United  
11 States that has not been forested prior to restora-  
12 tion, afforestation and improved forest management,  
13 that meet the eligibility requirements and quality  
14 criteria promulgated under section 364.

15 **SEC. 363. ALLOCATION.**

16 Not later than April 1, 2011, and annually thereafter  
17 through calendar year 2049, the Administrator of the En-  
18 vironmental Protection Agency shall allocate and dis-  
19 tribute the balance of the International Forestry Account  
20 for the following calendar year for use in carrying out de-  
21 forestation reduction activities in countries other than the  
22 United States.

23 **SEC. 364. QUALITY CRITERIA FOR DEFORESTATION REDUC-**  
24 **TION ACTIVITIES.**

25 Not later than 2 years after the date of enactment  
26 of this Act, the Administrator of the Environmental Pro-

1 tection Agency, in consultation with the Secretary of the  
2 Interior, the Secretary of State, and the Secretary of Agri-  
3 culture, shall promulgate quality criteria for deforestation  
4 reduction activities directed at reducing emissions from  
5 deforestation and forest degradation, and at sequestration  
6 of carbon through restoration of forests and degraded  
7 land, afforestation, and improved forest management in  
8 countries other than the United States, including require-  
9 ments that those activities be—

- 10           (1) designed, carried out, and managed –
- 11                 (A) in accordance with widely-accepted en-  
12                 vironmentally sustainable forestry practices;
- 13                 (B) to promote native species and restora-  
14                 tion of native forests, where practicable and to  
15                 avoid the introduction of invasive nonnative  
16                 species; and
- 17                 (C) to promote fair compensation, public  
18                 participation, and the informed consent of af-  
19                 fected local communities and forest dependent  
20                 populations; and
- 21           (2) for not less than 50 percent of the funds  
22           covered by this part, requirements that ensure that  
23           the associated emission reductions or sequestrations  
24           are real, permanent, additional, verifiable and en-

1 forceable, with reliable measuring and monitoring  
2 and appropriate accounting for leakage.

3 **SEC. 365. ELIGIBILITY FOR DEFORESTATION REDUCTION**  
4 **ACTIVITIES.**

5 (a) IN GENERAL.—The Administrator of the Envi-  
6 ronmental Protection Agency, in consultation with the  
7 Secretary of State, shall identify and periodically update  
8 two lists of eligible countries for allocation and distribu-  
9 tion of the International Forestry Account, based on their  
10 level of development of domestic programs to implement  
11 deforestation reduction activities, one identified as Phase  
12 I and the other as Phase II.

13 (b) PHASE I COUNTRIES.—The Phase I list, eligible  
14 for up to 50 percent of the funds covered by this part,  
15 shall include countries that have demonstrated a commit-  
16 ment to conduct preparatory activities, which shall be  
17 identified in regulations promulgated by the Administrator  
18 of the Environmental Protection Agency, which are essen-  
19 tial for building the capacity of the country to engage in  
20 deforestation or forest degradation reduction activities as  
21 described in section 362 and subsection (c), including  
22 project-level and institution building activities.

23 (c) PHASE II COUNTRIES.—The Phase II list, eligible  
24 for not less than 50 percent of the funds covered by this  
25 part, shall be limited to countries that have—

1           (1) demonstrated the capacity to measure the  
2 results of international deforestation reduction ac-  
3 tivities, based on sufficient, accurate and verifiable  
4 historical data on changes in national forest carbon  
5 stocks, and also demonstrated the institutional ca-  
6 pacity to reduce emissions from deforestation and  
7 degradation;

8           (2) capped greenhouse gas emissions from de-  
9 forestation or other land use change or otherwise es-  
10 tablished a national emission reference scenario  
11 based on historical data;

12           (3) commenced an emission reduction program  
13 for the forest sector;

14           (4) achieved national-level reductions of defor-  
15 estation and degradation below a baseline or credible  
16 reference scenario, taking into account the average  
17 annual deforestation and degradation rates of the  
18 country during a period of at least 5 consecutive  
19 years; and

20           (5) demonstrated those reductions using remote  
21 sensing technology, taking into account relevant  
22 international standards.

23           (d) The Administrator of the Environmental Protec-  
24 tion Agency is encouraged to identify other incentives, in-  
25 cluding economic and market-based incentives, to encour-

1 age developing countries with largely intact native forests  
2 to protect those forests.

3 (e) No country may be eligible for both capacity  
4 building funds under subsection (b) and participation in  
5 an agreement for international forest carbon activities  
6 under section 114 of the Climate MATTERS Act of 2008.

7 **SEC. 366. REVIEWS AND DISCOUNT.**

8 (a) REVIEWS.—Not later than 3 years after the date  
9 of enactment of this Act, and 5 years thereafter, the Ad-  
10 ministrator of the Environmental Protection Agency shall  
11 conduct a review of the program under this part.

12 (b) DISCOUNT.—If, after the date that is 10 years  
13 after the date of enactment of this Act, the Administrator  
14 of the Environmental Protection Agency determines that  
15 foreign countries that, in the aggregate, generate green-  
16 house gas emissions accounting for more than 0.5 percent  
17 of global greenhouse gas emissions have not capped those  
18 emissions, established emissions reference scenarios based  
19 on historical data, or otherwise reduced total forest emis-  
20 sions, such Administrator may apply a discount to dis-  
21 tributions of funds to those countries under this part.

**PART 7—ENERGY EFFICIENCY****2 SEC. 371. ALLOCATION.**

3 Not later than April 1, 2011, and annually thereafter  
4 through calendar year 2049, the Secretary of the Treasury  
5 shall allocate—

6 (1) 39 percent of the balance of the Energy Ef-  
7 ficiency Account established under section 9512 of  
8 the Internal Revenue Code of 1986 for the following  
9 year to States that can demonstrate they have estab-  
10 lished a program that will reduce electricity and nat-  
11 ural gas demand in the state by 2 percent each year,

12 (2) 39 percent of the balance of the balance of  
13 such Energy Efficiency Account for the following  
14 year among load-serving entities,

15 (3) 10 percent of the balance of such Energy  
16 Efficiency Account for the following year to carry  
17 out the low-income home energy assistance program  
18 established under the Low Income Home Energy As-  
19 sistance Act of 1981 (42 U.S.C. 8621 et seq.),

20 (4) 2 percent of the balance of such Energy Ef-  
21 ficiency Account for the following year to carry out  
22 the Weatherization Assistance Program for Low-In-  
23 come Persons established under part A of title IV of  
24 the Energy Conservation and Production Act (42  
25 U.S.C. 6861 et seq.), and

1           (5) 10 percent of the balance of such Energy  
2       Efficiency Account for the following year to carry  
3       out activities that directly increase the energy effi-  
4       ciency in units assisted under the HOME Invest-  
5       ment Partnerships Program established under title  
6       II of the Cranston-Gonzalez National Affordable  
7       Housing Act (42 U.S.C. 12721 et seq.).

8       **SEC. 372. DISTRIBUTION.**

9           (a) IN GENERAL.—For each calendar year, the funds  
10      allocated under section 371 to load-serving entities shall  
11      be distributed by the Secretary of the Treasury to each  
12      load-serving entity, including each rural electric coopera-  
13      tive that serves as a load-serving entity in a State, based  
14      on the proportion that—

15           (1) the quantity of electricity delivered by the  
16      load-serving entity during the 3 calendar years pre-  
17      ceding the calendar year for which the funds are dis-  
18      tributed, adjusted upward for electricity not deliv-  
19      ered as a result of consumer energy-efficiency pro-  
20      grams implemented by the load-serving entity and  
21      verified by the regulatory agency of the load-serving  
22      entity; bears to

23           (2) the total quantity of electricity delivered by  
24      all load-serving entities during those 3 calendar  
25      years.

1 (b) BASIS.—The Secretary of the Treasury shall base  
2 the determination of the quantity of electricity delivered  
3 by a load-serving entity for the purpose of subsection (a)  
4 on the most recent data available in annual reports filed  
5 with the Energy Information Administration of the De-  
6 partment of Energy.

7 **SEC. 373. USE.**

8 All funds received under this part by a load-serving  
9 entity shall be used solely to promote energy efficiency on  
10 the part of energy consumers.

11 **SEC. 374. REPORTING.**

12 (a) IN GENERAL.—Each load-serving entity that ac-  
13 cepts funds distributed under this part shall, for each cal-  
14 endar year for which the load-serving entity accepts such  
15 funds, submit to the Secretary of Energy to report to the  
16 Secretary of the Treasury a report describing how, and  
17 to what extent, the load-serving entity used such funds  
18 during the preceding year.

19 (b) AVAILABILITY OF REPORTS.—The Secretary of  
20 the Treasury shall make available to the public all reports  
21 submitted by any load-serving entity under subsection (a),  
22 including by publishing those reports on the Internet.

1       **PART 8—ALTERNATIVE TRANSPORTATION**

2       **SEC. 381. GRANTS TO PROVIDE FOR ADDITIONAL AND IM-**  
3                   **PROVED PUBLIC TRANSPORTATION SERVICE.**

4       (a) IN GENERAL.—Of the funds allocated to the  
5 Transportation Alternatives Account each year pursuant  
6 to section 9512 of the Internal Revenue Code of 1986,  
7 32 percent shall be distributed to designated recipients (as  
8 defined in section 5307(a) of title 49, United States Code)  
9 to maintain or improve public transportation through ac-  
10 tivities eligible under that section and associated measures  
11 that increase the direct or indirect greenhouse gas emis-  
12 sions reductions projected to result from those eligible ac-  
13 tivities, including—

14           (1) improvements to lighting, heating, cooling,  
15       or ventilation systems in stations and other facilities  
16       that reduce direct or indirect greenhouse gas emis-  
17       sions;

18           (2) adjustments to signal timing or other vehi-  
19       cle controlling systems that reduce direct or indirect  
20       greenhouse gas emissions;

21           (3) purchasing or retrofitting rolling stock to  
22       improve efficiency or reduce greenhouse gas emis-  
23       sions; and

24           (4) improvements to energy distribution sys-  
25       tems.

1 (b) DISTRIBUTION.—Of the balance of account funds,  
2 the Secretary shall distribute under subsection (a)——

3 (1) 60 percent in accordance with the formulas  
4 contained in subsections (a) through (c) of section  
5 5336 of title 49, United States Code; and

6 (2) 40 percent in accordance with the formula  
7 contained in section 5340 of that title.

8 (c) TERMS AND CONDITIONS.—A grant provided  
9 under this subsection shall be subject to the terms and  
10 conditions applicable to a grant provided under section  
11 5307 of title 49, United States Code.

12 (d) COST SHARE.—The Federal share of cost of car-  
13 rying out an activity using a grant under this subsection  
14 shall be determined in accordance with section 5307(e) of  
15 title 49, United States Code.

16 **SEC. 382. GRANTS FOR CONSTRUCTION OF NEW PUBLIC**  
17 **TRANSPORTATION PROJECTS.**

18 (a) IN GENERAL.—Of the funds deposited in the  
19 Transportation Alternatives Account each year pursuant  
20 to section 9512 of the Internal Revenue Code of 1986,  
21 32 percent shall be distributed to State and local govern-  
22 ment authorities for design, engineering, and construction  
23 of new fixed guideway transit projects or extensions to ex-  
24 isting fixed guideway transit systems that will assist in

1 reducing direct or indirect greenhouse gas emissions of the  
2 regional transportation sector.

3 (b) APPLICATIONS.—Applications for grants under  
4 this section shall be reviewed according to the process and  
5 criteria established under section 5309(c) of title 49,  
6 United States Code, for major capital investments and  
7 section 5309(d) of title 49, United States Code, for other  
8 projects.

9 (c) TERMS AND CONDITIONS.—Grant funds awarded  
10 under this section shall be subject to the terms and condi-  
11 tions applicable to a grant made under section 5309 of  
12 title 49, United States Code.

13 **SEC. 383. GRANTS FOR TRANSPORTATION ALTERNATIVES**  
14 **AND TRAVEL DEMAND REDUCTION**  
15 **PROJECTS.**

16 (a) IN GENERAL.—Of the funds deposited into the  
17 Transportation Alternatives Account each year pursuant  
18 to section 9512 of the Internal Revenue Code of 1986,  
19 32 percent shall be awarded to designated recipients (as  
20 defined in section 5307(a) of title 49, United States Code)  
21 and State, regional, and local government authorities to  
22 assist in reducing the direct and indirect greenhouse gas  
23 emissions of the regional transportation sector, through  
24 the following activities—

1           (1) Carpool or telecommuting projects that do  
2 not include new roadway capacity;

3           (2) Bicycle transportation and pedestrian walk-  
4 ways in accordance with section 217 of title 23,  
5 United State Code, and the modification of public  
6 sidewalks to comply with the Americans with Dis-  
7 abilities Act of 1990 (42 U.S.C. 12101 et seq.);

8           (3) Updating zoning and land use regulations  
9 to support, allow, or incentivize walkable or transit-  
10 supportive development patterns and land uses;

11           (4) Transportation enhancement activities, in-  
12 cluding design and retrofitting of streets for  
13 multimodal access;

14           (5) Infrastructure-based intelligent transpor-  
15 tation systems that help reduce vehicle miles trav-  
16 eled, including automated road-pricing, congestion  
17 pricing, and advanced traffic management systems,  
18 provided they do not involve construction of signifi-  
19 cant new roadway capacity;

20           (6) Market-based programs to reduce travel de-  
21 mand, including car or bicycle sharing and pay-as-  
22 you-drive insurance.

23           (b) DISTRIBUTION OF FUNDS.—In determining the  
24 recipients of grants under this section, applications shall  
25 be evaluated based on the total direct and indirect green-

1 house gas emissions reductions that are projected to result  
2 from the project and projected reductions as a percentage  
3 of the total direct and indirect emissions of an entity, as  
4 determined by applicants using methods developed and  
5 promulgated by the Administrator, in concert with the Ad-  
6 ministrator of the United States Department of Transpor-  
7 tation, no more than 3 years after the passage of this Act.

8 (c) GOVERNMENT SHARE OF COSTS.—The Federal  
9 share of the cost of an activity funded using amounts  
10 made available under this section may not exceed 80 per-  
11 cent of the cost of the activity.

12 (d) TERMS AND CONDITIONS.—Except to the extent  
13 inconsistent with the terms of this section, grant funds  
14 awarded under this section shall be subject to the terms  
15 and conditions applicable to a grant made under section  
16 133 of title 23, United States Code.

17 **SEC. 384. TECHNICAL CAPACITY AND STANDARDS.**

18 (a) IN GENERAL.—Of the funds deposited into the  
19 Transportation Alternatives Accounts each year pursuant  
20 to section 9512 of the Internal Revenue Code of 1986,  
21 4 percent shall be distributed to Federal, State, and local  
22 government authorities including Municipal Planning Or-  
23 ganizations to allocate resources and staff to improve and  
24 apply technical capacity for the development of plans and  
25 future plan updates including—

1           (1) collection of travel and land use data to  
2           measure transportation system performance using  
3           per capita vehicle miles traveled and other measures  
4           adopted by the Administrator of the Environmental  
5           Protection Agency, with the concurrence of the Sec-  
6           retary of Transportation;

7           (2) monitoring and periodically reporting vehi-  
8           cle miles traveled by municipal planning region and  
9           statewide to demonstrate that performance objec-  
10          tives are achieved;

11          (3) modeling and analyses of transportation  
12          and land-use scenarios to develop regional and state-  
13          wide plans and plan updates that will ensure that  
14          the emission reduction targets established in section  
15          386(3) this will continue to met during the period  
16          prior to the planning horizon for each plan update;

17          (4) refinements to travel models to improve  
18          consideration of land use and non-motorized modes  
19          to estimate future system performance that are de-  
20          termined to be reliable for the purpose of estimating  
21          future travel and system performance; and

22          (5) stakeholder engagement.

23          (b) DISTRIBUTION OF FUNDS.—The Secretary shall  
24          distribute funds under subsection (a) as follows:

1           (1) 80 percent to State and local government  
2 authorities for developing and implementing activi-  
3 ties specified under subsection (a);

4           (2) 20 percent to the United States Environ-  
5 mental Protection Agency and the United States De-  
6 partment of Transportation to establish methods for  
7 providing guidance, support, tools, and information  
8 to State and local government authorities for devel-  
9 oping and implementing activities specified under  
10 subsection (a).

11 **SEC. 385. STUDY AND STANDARDS.**

12       (a) STUDY.—To improve the ability of recipients of  
13 funds under this part to maximize greenhouse gas emis-  
14 sions reductions resulting from funded activities, no more  
15 than 180 days after the passage of this Act—

16           (1) the National Academy of Sciences Trans-  
17 portation Research Board shall report to the Admin-  
18 istrator of the United States Department of Trans-  
19 portation recommendations for improving research  
20 and tools to assess the effect of transportation plans  
21 and land use plans on motor vehicle usage rates and  
22 transportation sector greenhouse gas emissions; and

23           (2) the Government Accountability Office shall  
24 report to the Administrator of the Environmental  
25 Protection Agency on shortcomings of current gov-

1       ernment data sources needed to assess greenhouse  
2       gas emissions from the transportation sector and to  
3       establish plans and policies to effectively reduce  
4       greenhouse gas emissions from the transportation  
5       sector, and make recommendations to address these  
6       shortcomings.

7       (b) TECHNICAL STANDARDS.—Not more than 2  
8       years after the passage of this Act, based on recommenda-  
9       tions issued pursuant to subsection (a), the Administra-  
10      tors of the United States Environmental Protection Agen-  
11      cy and the United States Department of Transportation  
12      shall promulgate standards for transportation data collec-  
13      tion, monitoring, planning, and modeling.

14      **SEC. 386. CONDITION FOR RECEIPT OF FUNDS.**

15      To be eligible to receive funds under section 381, 382,  
16      or 383, projects or activities funded under such section  
17      must be part of an integrated State-wide, regional, or local  
18      transportation plan that shall—

19              (1) include all modes of surface transportation;

20              (2) utilize data collection, monitoring, planning,  
21      and modeling methods pursuant to standards estab-  
22      lished in section 385(b);

23              (3) establish targets for reducing long term  
24      greenhouse gas emissions from the regional trans-

1 portation sector through reducing and managing  
2 motor vehicle usage;

3 (4) demonstrate that the targets established  
4 pursuant to subparagraph (3) will be achieved  
5 with—

6 (A) currently adopted land use plans and  
7 policies, or

8 (B) revised land use plans and policies for  
9 which commitments have been obtained by reso-  
10 lution of other lawful action taken by jurisdic-  
11 tions with authority to adopt land use plans  
12 and policies; and

13 (5) report on estimated direct and indirect  
14 greenhouse gases emissions from the transportation  
15 sector for 2005, and aggregate emissions for each  
16 five-year period within the planning horizon of the  
17 plan and each update; and

18 (6) be certified by the Administrator of the En-  
19 vironmental Protection Agency as consistent with  
20 the purposes of this Act.

21 **TITLE IV—EMISSIONS DETER-**  
22 **MINATIONS AND MISCELLA-**  
23 **NEOUS**

24 **SEC. 401. DEFINITIONS.**

25 In this title:

1           (1) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Environ-  
3           mental Protection Agency.

4           (2) CARBON DIOXIDE EQUIVALENT.—The term  
5           “carbon dioxide equivalent” means, for each green-  
6           house gas, the quantity of the greenhouse gas that  
7           the Administrator determines makes the same con-  
8           tribution to global warming as 1 metric ton of car-  
9           bon dioxide.

10          (3) GREENHOUSE GAS.—The term “greenhouse  
11          gas” means any of—

12                   (A) carbon dioxide;

13                   (B) methane;

14                   (C) nitrous oxide;

15                   (D) sulfur hexafluoride;

16                   (E) a perfluorocarbon;

17                   (F) a hydrofluorocarbon; or

18                   (G) any other anthropogenically-emitted  
19           gas that is determined by the Administrator,  
20           after notice and comment, to contribute to glob-  
21           al warming to a non-negligible degree.

22          (4) SECRETARY.—The term “Secretary” means  
23          the Secretary of the Treasury.

1 **SEC. 402. FEDERAL GREENHOUSE GAS REGISTRY, EMIS-**  
2 **SIONS DETERMINATION, AND UNCOVERED**  
3 **SECTOR EMISSIONS.**

4 (a) IN GENERAL.—For purposes of carrying out the  
5 emissions allowance system under subtitle L of the Inter-  
6 nal Revenue Code of 1986, the Administrator shall—

7 (1) develop a Federal Greenhouse Gas Registry  
8 that—

9 (A) covers all United States emissions of  
10 greenhouse gases;

11 (B) is complete, consistent, transparent  
12 and accurate;

13 (C) will collect reliable and accurate data  
14 on increases and reductions in United States  
15 greenhouse gas emissions as well as greenhouse  
16 gas sequestration that can be used by public  
17 and private entities to design efficient and ef-  
18 fective energy security initiatives and green-  
19 house gas emission reduction strategies; and

20 (D) will provide appropriate high-quality  
21 data to be used for implementing greenhouse  
22 gas reduction policies;

23 (2) determine—

24 (A) for each covered facility, the carbon di-  
25 oxide equivalent of—

1 (i) greenhouse gas that was emitted  
2 by the use of coal by that covered facility  
3 during the preceding year;

4 (ii) greenhouse gas that will, assum-  
5 ing no capture and sequestration of that  
6 gas, be emitted from the use of any  
7 petroleum- or coal-based liquid or gaseous  
8 fuel that was produced or imported by that  
9 covered facility during the preceding year;

10 (iii) greenhouse gas that was produced  
11 for sale or distribution or imported by that  
12 facility during the preceding year;

13 (iv) greenhouse gas that was emitted  
14 as a byproduct of hydrochlorofluorocarbon  
15 production; and

16 (v) greenhouse gas that will, assuming  
17 no capture and destruction or sequestra-  
18 tion of that gas, be emitted—

19 (I) from the use of natural gas  
20 that was, by that covered facility,  
21 processed, imported, or produced and  
22 not reinjected into the field; or

23 (II) from the use of natural gas  
24 liquids that were processed or im-

1                   ported by that covered facility during  
2                   the preceding year; and

3                   (B) any additional reduction in carbon di-  
4                   oxide equivalents by owners or operators of cov-  
5                   ered facilities, including additional net reduc-  
6                   tion of carbon dioxide equivalents due to dis-  
7                   placing petroleum in the transportation sector  
8                   through actions by the owners or operators of  
9                   covered facilities that result in increased use of  
10                  electrified transportation, such as plug-in hy-  
11                  brid vehicles, electric vehicles, port electrifica-  
12                  tion, electric rail, and truck stop electrification;  
13                  and

14                  (3) promulgate not later than 2 years after the  
15                  date of the enactment of this Act, and periodically  
16                  revise, regulations requiring that emissions in uncov-  
17                  ered sectors do not grow, so as to ensure that the  
18                  goal of this Act to reduce United States emissions  
19                  80 percent below 1990 levels by 2050 is met.

20                  (b) ANNUAL REPORT.—The Administrator shall an-  
21                  nually transmit to the Secretary a report describing the  
22                  results of activities under subsection (a).

23                  (c) DEFINITIONS.—For purposes of this section—

24                          (1) the term “uncovered sector” means any sec-  
25                          tor that is not primarily composed of covered facili-

1 ties and whose greenhouse gas emissions are not al-  
2 ready included in the cap through the regulation of  
3 a covered facility; and

4 (2) the term “United States greenhouse gas  
5 emissions” means the total quantity of greenhouse  
6 gas emissions calculated by the Administrator on an  
7 annual basis and reported to the United Nations  
8 Framework Convention on Climate Change Secre-  
9 tariat.

10 **SEC. 403. PARAMOUNT INTEREST WAIVER.**

11 (a) IN GENERAL.—If the President determines that  
12 a national security emergency exists and, in light of infor-  
13 mation that was not available as of the date of enactment  
14 of this Act, it is in the paramount interest of the United  
15 States to modify any requirement under this Act and the  
16 amendments made by this Act to minimize the effects of  
17 the emergency, the President may, after opportunity for  
18 public notice and comment, temporarily adjust, suspend,  
19 or waive any regulations promulgated pursuant to this Act  
20 and the amendments made by this Act to achieve that  
21 minimization.

22 (b) CONSULTATION.—In making an emergency deter-  
23 mination under subsection (a), the President shall, to the  
24 maximum extent practicable, consult with and take into  
25 account any advice received from—

- 1 (1) the Secretary;
- 2 (2) the National Academy of Sciences;
- 3 (3) the Secretary of Energy; and
- 4 (4) the Administrator.

5 (c) JUDICIAL REVIEW.—An emergency determination  
6 under subsection (a) shall be subject to judicial review in  
7 accordance with section 307 of the Clean Air Act (42  
8 U.S.C. 7607).

9 **SEC. 404. ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-**  
10 **VIEW.**

11 (a) RULEMAKING PROCEDURES.—Any rule, require-  
12 ment, regulation, method, standard, program, determina-  
13 tion, or final action made or promulgated pursuant to any  
14 title of this Act and the amendments made by this Act  
15 shall be subject to the rulemaking procedures described  
16 in sections 551 through 557 of title 5, United States Code.

17 (b) ENFORCEMENT.—(1) Each provision of this Act  
18 and any regulation issued pursuant to this Act shall be  
19 fully enforceable pursuant to sections 113, 303, and 304  
20 of the Clean Air Act (42 U.S.C. 7413, 7603, 7604). For  
21 purposes of enforcement under these sections, all require-  
22 ments under this Act shall constitute requirements of the  
23 Clean Air Act, and, for purposes of enforcement under sec-  
24 tion 304 of the Clean Air Act (42 U.S.C. 7604), all re-

1 requirements of this Act shall constitute emission standards  
2 or limitations under the Clean Air Act.

3 (2) All provisions related to mandatory duties of the  
4 Secretary or any other Federal official shall be fully en-  
5 forceable pursuant to section 304 of the Clean Air Act  
6 (42 U.S.C. 7604).

7 (3) The district courts of the United States shall have  
8 jurisdiction to compel agency action (including discre-  
9 tionary agency action) under this Act that has been unrea-  
10 sonably delayed.

11 (c) RECORDKEEPING, INSPECTIONS, MONITORING,  
12 ENTRY, AND SUBPOENAS.—The Secretary shall have the  
13 same powers and authority provided under sections 114  
14 and 307(a) of the Clean Air Act (42 U.S.C. 7414,  
15 7607(a)) in carrying out, administering, and enforcing  
16 this Act and the amendments made by this Act.

17 (d) JUDICIAL REVIEW.—A petition for judicial review  
18 of any regulation promulgated, or final action carried out,  
19 by the Secretary or any other Federal official or agency  
20 pursuant to this Act may be filed in the United States  
21 Court of Appeals for the appropriate circuit and otherwise  
22 only in accordance with section 307(b) of the Clean Air  
23 Act (42 U.S.C. 7607(b)), except that petitions concerning  
24 actions of the Secretary may only be filed in the United  
25 States Court of Appeals for the District of Columbia. The

1 provisions of section 307(f) of the Clean Air Act (42  
2 U.S.C. 7607(f)) shall govern the award of costs and attor-  
3 neys' fees in such cases.

4 **SEC. 405. RETENTION OF STATE AUTHORITY.**

5 (a) IN GENERAL.—Except as provided in subsection  
6 (b), in accordance with section 116 of the Clean Air Act  
7 (42 U.S.C. 7416) and section 510 of the Federal Water  
8 Pollution Control Act (33 U.S.C. 1370), nothing in this  
9 Act and the amendments made by this Act precludes or  
10 abrogates the right of any State to adopt or enforce—

11 (1) any standard, cap, limitation, or prohibition  
12 relating to emissions of greenhouse gas; or

13 (2) any requirement relating to control, abate-  
14 ment, or avoidance of emissions of greenhouse gas.

15 (b) EXCEPTION.—Notwithstanding subsection (a), no  
16 State may adopt a standard, cap, limitation, prohibition,  
17 or requirement that is less stringent than the applicable  
18 standard, cap, limitation, prohibition, or requirement  
19 under this Act and the amendments made by this Act.

20 **SEC. 406. TRIBAL AUTHORITY.**

21 For purposes of this Act and the amendments made  
22 by this Act, the Secretary may treat any federally recog-  
23 nized Indian tribe as a State, in accordance with section  
24 301(d) of the Clean Air Act (42 U.S.C. 7601(d)).

1 **SEC. 407. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated such sums  
3 as are necessary to carry out this Act and the amendments  
4 made by this Act.

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